



# Designs

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## Overview

What is “industrial design” and how can it be a tool in your intellectual property (IP) strategy?

Industrial design law in Canada protects the visual features of shape, configuration, pattern or ornamentation which are applied to a product. Elements that are purely functional are not protected. Take the example of the unique shape of a bottle. The purely functional elements – such as a handle, a cap or lid – those elements may not be protectable by industrial design law in Canada, but non-functional design elements such as ornamentations on a handle, a curved neck, or a ridged pattern on a cap may be protectable.

To enforce protection of such designs under the *Industrial Designs Act*, registration is required, and lasts for 10 years from the date of registration. After the expiry of the 10-year term, the design is available for anyone in Canada to make, import, rent or sell.

To obtain registration, get legal advice early in the design process. If the article or product has been “published” (i.e., it has been made public or offered for sale or use) then it may not be eligible for protection. However, there is a 12 month grace period in which to obtain registration after the product or article is first “published”. Timing is important and protection can be lost if the product launch is not coordinated with IP rights protection.

With experience supporting clients in many different industries, including universities, designers, retailers and wholesalers, distributors and manufacturers, we provide a full range of services including:

- Design protection for furniture, lighting fixtures, industrial arts, consumer products
- Advice on clothing and apparel designs
- Advice on industrial design protection options as part of IP strategy development
- Design registration and protection
- Licensing of design rights
- Ownership, chain-of-title and due diligence services, and
- Litigation and dispute resolution in cases of infringement of industrial design rights, counterfeits and knock-offs.

Contact Tony Edwards at [aedwards@fieldlaw.com](mailto:aedwards@fieldlaw.com) or 403-260-8590 to discuss how we can assist to protect and enforce industrial designs for your organization.

## Experience

Pat's Off-Road Transport v. Campbell et al, 2010 ABQB 443

Marty Sanders v. Smart & Biggar Intellectual Property & Technology Law, 2010 FC 73

## Industries

Education  
 Energy + Environment  
 Manufacturing  
 Media + Entertainment  
 Technology

## Services

Intellectual Property + Technology  
 Emerging Technology  
 Cyber Liability  
 Commercializing IP  
 Copyright  
 IP Litigation  
 Patents  
 Trademarks  
 Trade Secrets

Cookie Florist Canada Ltd. v. 132831 Canada Inc. (c.o.b. Monsieur Felix & Mr. Norton Cookies Inc.), 1998 CanLII 8079 (FCA)

Norac Systems International Inc. v. Massload Technologies Inc., 1997 CanLII 4900

Cookie Florist Canada Ltd. V. 132831 Canada Inc. (c.o.b. Monsieur Felix & Mr. Norton Cookies Inc.), [1996] F.C.J. No. 1598, Federal Court of Canada - Trial Division

Alwest Neon Signs Ltd. v. Coldwell Banker Achievers Realty, 1994 CanLII 9222 (AB QB)

## People

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## News + Views + Events

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[Understanding Your Intellectual Property Toolbox](#)

March 2013

[Protection By Design: Industrial Design Law In Canada](#)