

Retailers and Australian design IP

Published June 2020

Main points

- **Unauthorised copying of designs is IP theft.**
- **Many large retailers in Australia regularly stock unauthorised cheaper copies of designer products.**
- **Unauthorised copying steals income from designers and denies them the ability to control their designs.**
- **Most designers don't have the funds to take action against copying through the courts.**
- **Most if not all large retailers now have ethical sourcing policies – unauthorised copying contravenes those policies and undermines community trust in their brands.**
- **Some large retailers have withdrawn unauthorised copies from sale after they've received complaints.**
- **The Design Institute of Australia is calling on Australia's major retailers to engage in fair sourcing from designers to stamp out unauthorised copying.**

The issue

Large retailers sometimes stock products that are almost identical versions of those made by Australian designers, usually undercutting the original on price by manufacturing to a lower quality standard. These products are usually popular because consumers respond to the design features of the original that prompted it to be copied. Large retailers are sophisticated businesses that excel at identifying products that will be attractive to consumers. It is possible that some businesses are unaware that they are stocking products based on stolen concepts. However, the number of ongoing instances suggests that unauthorised copying may be standard practice for others.

For a designer who discovers unauthorised copies of their work on sale at a large retailer, taking action through the courts is both time-consuming and probably prohibitively expensive. Most designers try direct requests to the retailer to withdraw the product, or use the media to encourage a response. Generally, large retailers have been reluctant to withdraw copied products.

What should change

Designers should be fairly compensated for their work, and the right to control their designs should be respected by large retailers. In practice, the DIA is calling on Australia's large retailers to ensure they are doing business with the rightful owner of a design. Checking the provenance of a product design should be integrated into standard planning, and claims of unfair practice should be investigated promptly through transparent, agreed procedures and without a presumption of litigation. 'Designed in Australia' should be a product feature that is celebrated by retailers and promoted

to customers on the basis that designers are considered part of the supply chain and treated fairly, ethically and in accordance with the law.

The DIA recognises that large retailers have multiple, competing obligations to employees, suppliers, shareholders and the communities they operate in. We also recognise the complexities in offering complex, changing inventory and the steps taken already to bring transparency to business practice. We are asking large retailers to incorporate policies to eradicate unauthorised copying into their corporate responsibility documents and to enjoy the benefits of fair use of great Australian design.

Benefits of change

Stamping out unauthorised copying of designs not only advantages individual designers, it benefits consumers who can shop with confidence that they are buying quality products sourced through ethical supply chains. Large retailers who work with local designers are able to offer unique and high quality products tailored to local tastes. The DIA believes that ethical engagement with product designers should not have to lead to increased costs of production. It is certainly many times less costly than withdrawing an unauthorised copy of a product from sale.

Next steps and what we need you to do

The DIA will continue to draw attention to instances of unauthorised copying by large retailers, and will develop education material to assist retailers to stamp out IP theft and ensure they are operating in line with community standards. This will include material for board members of public companies to guide them on addressing the issue. The DIA will work with retailer and manufacturer peak bodies to update their members' Ethical Sourcing and Fair Trade policies. In particular, we call on large retailers such as Target and Aldi to demonstrate their commitment to ethical sourcing by swiftly addressing any instances of unauthorised copying. We also call on IP Australia to invest resources into uncovering the extent of unauthorised copies for sale through large retailers.

Questions or suggestions?

The DIA is committed to a design approach to policy development. We develop policy positions collaboratively to reflect the concerns of design professionals across the country. If you would like to engage with us on this topic we have staff based around the country or you can call or email the National Office team. We would like to hear from you about whether we have got this right. Do you have queries about what we're asking of you? Would the proposed change help you? What more can be done? Do you want to help?

About us

The Design Institute of Australia (DIA) is the peak professional association for designers and design businesses in Australia, representing professionals in all design disciplines for over sixty years. The DIA is run by and funded by designers for designers. The DIA champions design and design thinking as a central element in a flourishing digital economy and a sustainable future, and believes that Australia's highly skilled and innovative design community offers the prospect of solutions to the world's most pressing problems, as well as ways to make everyday life more comfortable and enjoyable.

Contact details

Design Institute of Australia

ABN 12 004 412 613
27 Derby Street
Collingwood VIC 3066

Tel: 1300 888 056
admin@design.org.au
www.design.org.au