



THE LAWWAY WITH LAWYERS JOURNAL

VOLUME:-19 ISSUE NO:- 19 , JUNUAR 01, 2024

ISSN (ONLINE):- 2584-1106

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STYLE MEETS LAW: INTELLECTUAL PROPERTY IN FASHION INDUSTRY

ABSTRACT

The fashion business is always reinventing itself by creating new trends and designs for each season. Everyone wants to be up to date with the latest fashions and be "in" with the trend. There is a high cost associated with keeping up with fashion. The conundrum is that while everyone aspires to be stylish, not everyone can afford it. Because of this, many turn to unethical methods to obtain what they desire. Creating an illegal industry that takes advantage of the circumstances and offers cheap, mass counterfeit imitations of apparel and accessories, making "fashion" accessible to everyone. When their work is widely imitated without their consent and fake goods are offered at lower prices, the fashion industry and designers, who rely on originality and fine skill to create one-of-a-kind and exclusive products, are reduced to rubble. The fashion business places a high value on intellectual property, which should be safeguarded. Additionally, an atmosphere that allows designers to work without worrying about infringement or counterfeiting must be established. The parallel fashion black market, which is nearly as large as the fashion industry itself, is rife with cheap replicas, rip-offs, and duplication. This kills the designers' creativity and associated elements of fashion and design. By defending the rights of these innovative designers, intellectual property rights aim to close this gap. This paper compares the Indian intellectual property regime, which depends on a combination of design, patent, and copyright protection for the designers, to the Western regime, along with the various procedural protections offered by the

two regimes, with the common goal of protecting the creativity of the fashion designers. It aims to explore how intellectual property helps protect the rights of designers, design houses, and brands in the fashion industry from the evils of counterfeiting, copying, duplication, and unauthorised use of their work.

KEYWORDS : Fashion Industry, Intellectual property, Counterfeiting

I. INTRODUCTION

Everyone wants to be up to date with "fashion," which never goes out of style. Every generation or season brings about a rapid change in fashion, with some styles becoming timeless while others become vintage. Therefore, Designers and design firms must always adapt to the times and be the first to release their innovative works in order to become well-known, popular, and commercially advantageous. The main source of competition is the inventiveness of unique creative expressions, which necessitates safeguarding their original work against duplication, copying, and theft without consent. The fashion sector is growing quickly on a global scale, with a projected market valuation of over \$2.25 trillion by 2025.¹ Therefore, it is necessary to protect these designers' creations. Intellectual property law enters the scene and shields these designers' creations, inventions, and designs from imitation, copying, and market piracy that deceives consumers. Fashion design is a kind of art that calls for the development of a sharp eye and creative thought in order to create apparel and lifestyles. Versace's Medusa motif, Dr. Martens boots, Sabyasachi's Bridal Collection, and Chanel's No. 5 perfume are a few of the most well-known Products of applied intellectual creativity and skill.

WIPO defines Intellectual property (IP) as the “creations of mind, such as inventions; literary and artistic works; designs and symbols, names and images used in commerce”². Intellectual Property Laws are a body of legislation that establishes rights and offers protection and enforcement for an inventor's or creator's legal rights over his or her fresh or original invention, creative and artistic work, or designs. These shield the original author

¹ Iliana Papamichael, Georgia Chatziparaskeva, et.al., “The Perception of Circular Economy in the Framework of Fashion Industry”, 41(2) Waste Management & Research 251 (2023) VOL 41 ISSUE 2
<https://doi.org/10.1177/0734242X221126435>

² Uganda Registration Service Bureau, “Basic aspects of Intellectual Property”,
<https://www.wipo.int/about-ip/en>

from copying and infringement. Fashion design is an art form that requires No one can ever dispute the significant contribution that intellectual capital provides to the creation and marketing of products in the fashion industry, whether they are ready-to-wear or high fashion. The fashion industry is heavily dependent on IP that consistently generates and commercially exploits innovative concepts.³To safeguard a billion-dollar business that depends on creativity and passion, intellectual property law is essential. The fashion business may only truly thrive if inventors and artists who have produced their work with passion and originality are granted protection.

In order to protect fashion designers, fashion houses, and boutique fashion businesses from the harmful practices of imitation, duplication, and piracy, this article aims to investigate the role that intellectual property law plays in the fashion sector. Examining the necessity of intellectual property laws and how they safeguard fashion creations. The relevance of several IP law types in the fashion industry is specifically highlighted in this article. Along with current case-laws from the Indian perspective and outlining the difficulties encountered, it emphasizes how they prevent piracy of the work of various designers and design houses. The article does additional research to obtain a worldwide perspective on the trends from the viewpoints of the US and Europe. Concluding with a review of the regulations' expansion, protection, and potential advantages for the fashion sector.

II. WHO BENEFITS FROM LEGAL PROTECTION IN FASHION INDUSTRY?

A multibillion-dollar global corporation, the fashion industry is engaged in the production and selling clothing. Having more than a million employees globally, it includes the conceptualisation, design, and production of clothing and accessories for men, women, and kids from many ethnic backgrounds and cultures, as well as the eventual sale, marketing, and promotion of these products. From couture ball gowns and caps to pyjamas and socks, it offers the most costly and unique customized haute couture and designer clothes in addition to everyday, lounge attire.

³Shreyas Vivekanandan” The Fashion Industry: Intellectual Property Rights and Sustainability in the realm of Fast Fashion and ECommerce.” Master’s Thesis in European and International Trade Law (2024)
<https://lup.lub.lu.se/student-papers/record/9158961/file/9158964.pdf>

The Fashion Industry consists of four-tier system which include mainly:⁴

- Production of raw materials, such as textiles and fibers, such as leather, fur, synthetic fibres, cotton, silk, linen, and wool. Encompassing eco-friendly fashion.
- Production of fashion items by designers, design firms, and manufacturers who produce high-end collections that range from typical ready-to-wear to haute couture.
- Retail sales after they have been designed and manufactured
- Various forms of advertising and marketing strategies, including fashion shows, publications in fashion magazines with lots of illustrations, online media presence, and fashion blogs.

This is a highly intellectual property-intensive industry which is always developing, innovating, manufacturing, and bringing new designs and products to market. The goal of intellectual property is to establish an environment free from unlawful infringement where fashion designers can produce and market their hard work and inventiveness. According to a 2008 court ruling in the case of *Rajesh Masrani v. Tahiliani Design Pvt. Ltd.*⁵, intellectual property protects the first two tiers, which include the development of raw materials and product designs, including colour and shape, ranging from clothing to accessories and also it is observed that “artistic work”⁶ includes even the printed decorations and embroidery on the fabric and hence, would fall under the ambit of section 2(c)(i) of the Indian Copyright Act, 1957 under “artistic work” which would also include drawing/ sketches of fashion clothing.

Designers, artists, inventors, businesspeople, and entrepreneurs who own the exclusive rights to use and control their registered intellectual and creative works and who also stand to profit from them are the primary recipients of legal protection under IP law. All artists working in the fashion business, including designers, design houses, and brands, are granted these rights under intellectual property law to protect them from the perils of imitation and counterfeiting. Furthermore, because it serves as a key differentiator between designers' work, intellectual property is a very significant asset for fashion industry designers, design houses, and brands.⁷

⁴ Waleed Hassan Akhtar, Chihiro Watanabe & Pekka Neittaanmäki “ A New Perspective on the Textile and Apparel Industry in the Digital Transformation Era” *Textiles* 2022, 2(4), 633-656; <https://doi.org/10.3390/textiles2040037>

⁵ *Rajesh Masrani v. Tahiliani Design Pvt. Ltd.* AIR 2009 DELHI 44

⁶ The Copyright Act, 1957 (Act 14 of 1957), s. 2(c)

⁷ Altacit Global “ IPR in Fashion Industry” <https://www.altacit.com/ip-management/ipr-in-fashion-industry/>

III. CHALLENGES ENCOUNTERED BY THE FASHION INDUSTRY

The unlawful and unauthorised use of another person's creation is known as piracy. Simply put, it refers to the act of replicating someone else's work without that person's consent or knowledge. It is described as the unlawful duplication of goods protected by intellectual property regulations such as copyright, patent, and trademark laws. Illegal copying is equivalent to plagiarism or piracy in terms of intellectual property. The following are examples of fashion piracy:

- a) Duplicating or stealing fashion designs from other people, including fashion designers.
- b) Copying someone's brand logo or label.

The unauthorized duplication of distinctive and beautiful designs by well-known designers without their consent is known as fashion design piracy. It can be divided into several categories, which include the following:

Knockoffs:

Knockoffs occur when an original design, product, or work is copied and remarketed under a different label or brand name that is similar to the original brand name, but at a price that is substantially lower than the original product, work, or design's retail price under a different brand. For instance, imitation athletic shoes marketed under the name "Hike" share a similar pattern and style to those marketed under the name "Nike."

Counterfeit:

The act of copying and fully reproducing an original product at a lower cost than the original with the intention of violating the original owner's intellectual property rights over that product or design is known as counterfeiting. There is not even the smallest change between the product and its original design; they both look exactly the same. For instance, the bridal lehengas that women purchase from ChadniChowk in Delhi are essentially replicas of Sabyasachi Manish Malhotra's designs, but they are significantly less expensive than the originals and even the western clothing that can be seen in Bandra's Linking Road or Sarojini Market in New Delhi. The government considers counterfeiting to be illegal and has spent millions on legal actions to try to restrict the sale of these fake goods. Prominent fashion labels such as Gucci, Armani Exchange, and Nike have won multimillion-dollar cases against counterfeiters of their distinctive designs and merchandise.⁸

⁸ Yosha Dubey, "The Role of IPR in Fashion Industry" 10(1) International Journal for Research in Applied Science and Engineering Technology 1554 (2022)

advancements, globalization, and digitization necessitate extending this protection to the innovative minds that have cultivated the fashion sector to its current state, with a market valuation exceeding \$1 billion.

The fashion industry, designers, and design houses benefit from legal rights in the form of intellectual property rights in two ways: "The damage actioned by the knockoff is twofold," as Gary Assim noted. First of all, it denies the original designer the money that would have been earned from the sale of the product that required a great deal of innovation and research and development. Second, the designer is not acknowledged as the original creator.⁹ In order to combat the evils of unapproved use and replication that plague the fashion industry, the creativity, originality, and rights of fashion designers should be "legally protected." The majority of legal systems worldwide have an intellectual property system in place to deal with this problem. It safeguards and promotes "inventive creation of human intellect" and creativity.¹⁰ Thus, it seeks to establish a setting free from hindrances where creativity and innovation can thrive. Today's fast-paced technological

a. Offering Protection: By preventing unauthorized use or imitation of the original creator's work, product, design, or textile, intellectual property rights shield others from profiting from their diligence, talent, inventiveness, and investment.

b. Preventing Exploitation: By engaging into licensing agreements for these designs with other third parties without the original creator's consent, they avoid making money off of the unauthorized use of the original creator's work, designs, or product.

IV. LEGAL PROTECTION UNDER THE INDIAN LAW

In India under these five IPR legislations, original creators, including designers, design houses, and even brands, are entitled to protection for their fashion designs and creative works. These consist of:

The Indian Copyright Act, 1957 (Act 14 of 1957).

The Designs Act, 2000 (Act 16 of 2000).

The Trademarks Act, 1999 (Act 47 of 1999).

The Patents Act, 1972 (Act 39 of 1972).

The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act 48 of 1999).

⁹The Business of Fashion, available at:
<http://www.businessoffashion.com/2011/07/fashionsintellectual-property-conundrum.htm>

¹⁰ WIPO Magazine "What is Intellectual Property"? : www.wipo.int/about-ip/en/

These Acts cover specific elements of the garment, such as its design, shape, color, material, pattern, texture, and color, but they do not completely protect the garment as a whole.¹¹

Protection under the Indian Copyright Act, 1957

The legal right of ownership over an intellectual property is known as "copyright." It is the legal right to copy anything.¹² This guarantees that the only people with the exclusive right to recreate and replicate the work are the original creator of the goods and those to whom he gives permission. The creator's exclusive rights to his artistic, literary, and musical creations are covered by copyright. In the context of the fashion business, copyright protects the creative effort and originality of designers. The Copyright Act, 1957 defines an artistic work under Section 2 (c), so as to include paintings, sculpture, sketch or any other artistic creation.¹³ It defines it in a broad way to include artistic work without visual appeal.¹⁴ The registration is not a mandatory requirement to seek copyright protection.

According to Section 22 of the Copyright Act, 1957, an author or creator's copyright in India is protected for the duration of their lives plus 60 years after the year of their passing. However, the period is 60 years from the year of publication for works that are joint authorship, anonymous, or pseudonymous. One of the few sectors where an artist or designer's work is highly valued is the fashion industry, and his success and financial gain are solely due to his inventiveness. Therefore, it is vital that the designer's originality be protected in order for the industry to advance by promoting the creation of artistic works and compensating the copyright holder with financial benefits and notoriety.

Only artistic designs are protected by the Copyright Act of 1957, particularly when they take the form of graphic works like paintings and drawings, which need to be unique, original, and creative. Only textile designs are protected under copyright, while the actual dress when produced along with its shape, silhouette and cut is not protected. This was further established in the *Star Athletica v. Varsity Brand*¹⁵ case, in which a former worker of a business produced cheerleading costumes. After relocating abroad, he began manufacturing cheerleading costumes that were identical in style to those made by his previous employer. The question that emerged in this case was whether a number of apparel designs and shapes

¹¹ "Protecting the Fashion Industry: How Copyright Act and Designs Act Accommodate Each Other in India", available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4466249

¹² "Copyright Definition, Types, and How It Works", available at: <https://www.investopedia.com/terms/c/copyright>

¹³ The Copyright Act, 1957 (Act 14 of 1957).

¹⁴ Ibid

¹⁵ 580 U.S. (2017).

would be covered by copyright protection.¹⁶ It was decided that the cut, form, and profile of the garments would not be protected by the copyright law; only the design would. As a result, it was decided that designs on the outside of garments and textiles were protected, as were sketches of the patterns. The Hon'ble Delhi High Court further decided in the *Rajesh Masrani v. Tahiliani*¹⁷ Designs case that drawings created in accordance with the actual accessories and clothing, as well as printed patterns and embroidery done on fabric, fell under the definition of "artistic work" under Section 2(c) of the Copyright Act, 1957.¹⁸

A person's design will no longer be protected by the Copyright Act of 1957 if it has been copied and reproduced on more than fifty different publications or works. This is an exception to the rule that the creator has the right to seek protection for his creation. The plaintiff in the matter of *Ritika Private Limited v. Biba Apparels Private Limited*¹⁹ suffered financial loss when a fashion brand appropriated the designs of a boutique fashion design firm and used them in all of their products. Because of a loophole in section 15(2) of the Copyright Act, 1957, which states that if a design that is required to be registered with the relevant design authorities under the Design Act, 2000 has not been registered and has been copied and reproduced on more than 50 pieces of articles or work, the creator/designer will forever lose his rights under the copyright law,²⁰ the design house that lifted another brand's design, BIBA, got away with the copyright infringement it had caused.

Protection under Design Act,2000

A product's visual appearance is called its design. Since the fashion industry is centered on designs, it is crucial that designs be protected. Regarding the fashion sector, protection under the Design Act of 2000 is only accessible on both new and unique designs. It cannot resemble any previously created or even merely sketched design. Only the object's visual appearance is protected by design; the substance, feel, and functionality of the goods are not protected. The Design Act of 2000 states in Section 2(d) that a design is defined as any feature of shape, configuration, pattern, ornament, or composition of lines or colors applied to any object, whether two-dimensional, three-dimensional, or both, by any industrial process or means, whether manual, mechanical, or chemical, separate or combined, that appeals to and is judged solely by the eye in the finished product. This definition excludes any construction method or

¹⁶ *Star Athletica v. Varsity Brand*, 580 US (2017).

¹⁷ AIR 2009 DELHI 44.

¹⁸ *Rajesh Masrani v. Tahiliani Designs* AIR 2009 DELHI 44

¹⁹ 2008 PTC (38) 251 (Del).

²⁰ The Copyright Act, 1957 (Act 14 of 1957), s.15(2).

principle, as well as anything that is essentially a simple mechanical device. Only registered designs are protected. Once a design is registered, the registered holder is protected from imitations and counterfeits. Regardless matter whether they are new or unique, decorative or artistic, two-dimensional elements like a textile print, or three-dimensional elements like a purse or outfit.²¹ By registering as an industrial model, a three-dimensional design can receive protection. However, printed designs on textiles may be filed under the industrial design category. A registered design is protected for ten years, with the possibility of an additional five-year extension. The individual who engages in design piracy faces a severe punishment under the Design Act of 2000, which includes penalties up to INR 25,000 that can be recovered as a contract debt.²²

Artistic work is not included in the definition of design under the Design Act of 2000. In the case of Pranda Jewelry Pvt. Ltd. v. Aarya 24K²³ regarding copyright infringement of gold sheets, articles of deity, and non-secular symbols, The Hon'ble Bombay High Court deliberated on the distinction between an artistic work and a design. By comparing it to replicating a painting on canvas, the court determined that when a painting is duplicated onto a canvas, its characteristics such as its shape and arrangement are not applied; rather, it is merely copied. On the other hand, items like mixers and refrigerators use characteristics like shape and configuration. The court decided that although they are plans, diagrams, or sketches, they would be considered to have artistic value and hence fall under the category of designs.

Protection under the Trademark Act,1999

Trademark is defined under Section 2(zb) of the Trademark Act of 1999 which states that a trademark as "a mark" that can be graphically expressed and that can be used to differentiate one's own goods or services from those of others. It also include the product's packaging, color scheme, and item shape.²⁴In other words, any name, design, symbol, term, or combination of colors used to identify and distinguish commercial goods is protected by a trademark. For example, Christian Dior bags and accessories are distinguished from those of other haute couture fashion design firms by the "Christian Dior CD" badge and the "Christian

²¹ Department of Trade and Industry, Republic of South Africa, "Looking Good: An Introduction to Aesthetic Designs for Small and Medium-sized Enterprises",

²² The Designs Act, 2000 (Act 16 of 2000), s.22.

²³ AIR 2015 Bombay 157.

²⁴ 0 The Trademarks Act, 1999 (Act 47 of 1999), s. 2(zb).

Dior Trademark." Consumer interest, trademark owner interest, and market competitors' interest are the three main objectives of trademarks.

A trademark is very valuable in the fashion business since it helps maintain a brand's high level of prestige and identity. Since most customers only buy things from the brand because of its name and value, fashion houses place a high value on their brand equity. This helps the brand stay positive in the marketplace, which is crucial for the fashion business. It safeguards its trade dress, which includes the shape, color scheme, and packaging, as well as its logo and brand name. Under trademark law, only a registered trademark is protected. According to the definition in section 2(d) of the Design Act, 2000, it is not conceivable to concurrently register a similar work of art as a design or trademark, the Hon'ble Delhi High Court noted in the *Micolube India Ltd. v. Rakesh Kumar Trading*,²⁵ case. According to section 11 of the Designs Act of 2000, the registrant is permitted to use the trademarked design however they see fit after registration. The use of a registered design as a trademark is not one of the grounds for trademark cancellation under section 19 of the Design Act. The scope of trademark protection for fashion designers, fashion houses, and brands registered under the Design Act of 2000 was broadened by this ruling. As a result, the registrant benefits from double protection under both the Trademark Act of 1999 and the Design Act.

Customers are typically drawn to trademarks because the products are in any case novel and distinctive ideas. Since fashion patents are significantly more difficult to obtain and corporations would do all it takes to preserve their invention, the majority of Indian designers prefer to obtain trademark protection over patent and design protection.

In the *Christian Louboutin Sas v. Pawan Kumar & Ors.*²⁶ case, for example, the plaintiff sought permanent damages and stopped Kamal Footwear and Andhara Steps from offering lower-priced fake Louboutin shoes with red soles. One of the most luxury shoe companies is Louboutin, whose trademark includes red soles, which the respondent violated. The court decided in the plaintiff's favor and ordered the defendant to pay the plaintiff INR 10.7 lakhs in damages. Additionally, it was noted that the red sole shoes of Christian Louboutin were a well-known brand. This example demonstrates how a designer or brand can use a trademark to safeguard its distinctive mark as a valuable intellectual property right.

Fashion designers and artists just need to submit an online e-trademark application on the Trademark Registry website to obtain a trademark, making trademarks more affordable, practical, and time-efficient than other options.

²⁵ AIR 2014 DELHI 375

²⁶ PTC 2018 DELHI 403

Protection under Patent Law

Innovative inventions are protected by patents. Innovations that are integrated into products to create new technologies are protected by patents. The holder of a patent is granted exclusive ownership of the invention for 20 years following the date of filing, which is a government-issued property right. When it comes to producing, marketing, and utilizing the innovation, the patent holder has the only authority throughout this time. The fashion industry is all about who can release their goods in a distinctive, creative, and clever way to outperform their rivals. Since artistic production cannot be patented, patents are not something that immediately spring to mind when discussing the fashion industry. Only the technology utilized to create these designs and artistic creations is eligible for patent protection. In relation to the fashion business, fashion patents grant the designer or creator legal rights over their creation. To put it briefly, technology utilized to develop a process or a product is protected by patent law. Only technology utilized to produce goods like CROCS shoes, wrinkle-free textiles, and water-repellent textiles is eligible for patent protection.²⁷ Another well-known example is Novozymes, a biotech business with a Danish registration that specializes in microbes and enzymes. It created an industry-leading, patented technique that is now applied to "stone washed" denim. It creates the appearance of old denim by using an enzyme called cellulase.²⁸ Within three years of Novozymes' groundbreaking breakthrough, all other denim firms began utilizing its patented process under license. The technology developed by Novozymes is currently licensed globally to enhance production processes and fabric finishing. It currently has over 4200 active patents worldwide.²⁹ The designer can choose to pursue protection under both utility and design patents under USPTO legislation. In contrast to the earlier utility patents, which offer protection for 20 years after filing, the later design patents grant protection to the patent holder for 15 years. Once the time frame has passed, it becomes public domain and anybody can use it for commercial purposes without needing a patent license. Ever while obtaining patents for technology is costly and time-consuming, if the idea is new, it may not ever become old and can be utilized in the fashion business for a very long time.

Protection under Geographical Indications

²⁷ Role of Intellectual Property in the Fashion Industry available at: <https://lexforti.com/legal-news/roleof-intellectual-property-in-the-fashion-industry/>

²⁸ IPR in Fashion Industry available at: <https://www.altacit.com/ip-management/ipr-in-fashion-industry/>

²⁹ IP and Business: Intellectual Property in the Fashion Industry, available at: https://www.wipo.int/wipo_magazine/en/2005/03/article_0009.html

Geographical indications are form of IP which is used to identify a product in connection with the particular region from which it comes. Having the quality, reputation or other characteristics that are essentially attributable to that particular geographical region from where it has originated.³⁰

India has a lengthy history of fashion that is deeply ingrained in its varied cultural traditions. Each region has its own distinctive traditional attire, accessories, and costumes, adding to the nation's rich textile legacy. The Geographic Indications Act, 1999 (henceforth GI) protects its diversity in traditional knowledge and other indigenous art forms. Schedule IV of the Act lists the products that are protected by the act. Fashion apparel and accessories are made from textiles whose texture and artistic value are protected by GI. The rural community would greatly benefit from GI if it were used in conjunction with copyrights and trademarks. The government works to safeguard indigenous art from exploitation and piracy because of the incredibly high demand for Indian traditional art forms in markets throughout the world. Only 23 GIs that fall under the textile category have been registered thus far. For example: Gujarati Kutch Embroidery, Assamese Muga Silk, Orissan Kotpad Handloom Fabric, Tamil Nadu's Kancheepuram Silk, the Ponchampally Ikat from Ponchampally, close to Hyderabad, and Rajasthan's Kota Doria.³¹

V. PREVAILING POSITION IN EU & USA

Even while copyright is more frequently discussed as the primary safeguard in the US, fashion industry utilize trademarks even more frequently to safeguard their brands when it comes to design. The historic case of *Star Athletica, LLC v. Varsity Brands, Inc.*³², which concerned the copyrightability of a design, had a significant impact on the US fashion design industry and introduced the idea of "separability" as a requirement for clothing and other practical objects to be covered by US copyright law. These items, which include clothing, dresses, shoes, and bags, are not protected by copyright law in the United States.

Additionally, it established the separability test, which maintained that only aspects of a design that could be isolated from the main garment would be eligible for copyright protection. Since the copyright legislation only covered a portion of the clothing and not the entire item, this posed a significant challenge for US designers.³³

³⁰ Protecting Local Products with Geographical Indications, available at: https://www.wipo.int/ipoutreach/en/ipday/2022/toptips/geo_indications.htm

³¹ Ibid

³² 580 US 2017.

³³ 9 "Fashion Industry and Challenges for IP Protection", available at: <https://www.mondaq.com/india/trademark/1024232/fashion-industry-and-challenges-for-ip-protection>

Although it is a time-consuming but successful process, designers have shifted toward obtaining design patent protection, and the IP regime pertaining to the fashion sector in the United States has changed with the times. The practice of submitting a trade dress application, which safeguards the product's appearance and packaging, has grown in popularity.

The main distinction between the IPR regimes in the US and Europe is that the latter protects clothing and accessories on all counts, regardless of whether the design can be separated from the garment. The former does not offer protection for the entire garment; rather, it only offers protection when the specific design can be separated from the garment-test of separability.

VI. CHALLENGES IN IMPLEMENTING IP LAWS

When it comes to safeguarding inventions, designs, products, and prints that are the result of the ingenuity and ideas of designers, companies, and design houses, the fashion industry has advanced significantly in recent years. It is nevertheless necessary to establish an atmosphere that fosters innovation and guards against unethical abuse of the rights of these innovative designers and design firms. Because of intellectual property laws, which have worked to establish a secure setting where designers can freely use their skills without fear of repercussions. When it comes to intellectual property protection, there are still serious shortcomings.

Being aware of their rights regarding protection under intellectual property rights is vitally important for fashion designers. They must also register their designs in order to receive protection under intellectual property law, which will stop their inventions from being copied, replicated, reproduced, and sold for less money without the original designer's consent. Growing a country's intellectual property requires a greater understanding of individual rights. Reducing current legal loopholes in the fashion industry's intellectual property protection can accomplish the same goal.

In order to increase protection against infringement in the form of copying, imitation, and counterfeit goods, as well as to give the original designer and design house more authority to seek redress in the event that ideas and designs are stolen, designers and design houses must register their corporations, designs, and brand names. In the long term, registering a brand name, design, or trademark helps the innovator protect their creations, despite the time and expense involved.

Finally, Different kinds of infractions arise as a result of changing periods and technology advancements; therefore, the government must monitor these new trends and enact laws to protect creators' rights so they can produce creations without fear

VII. CONCLUSION

In addition to being unethical, copying the concepts and designs of other designers and design houses poses a serious issue for high-end luxury brands because these companies produce expensive limited-edition pieces that devalue the brand when they are copied and resold in large quantities at a lower price. Both the global fashion industry and the global economy are significantly impacted by this. The business of the brand is directly and significantly impacted when a design is imitated. When cheaper and more plentiful copies of these brands' items are offered for sale, these companies risk losing their trust in emerging regions.

The fashion industry is changing quickly and continuously. Therefore, it is necessary to enforce stronger regulations that stop the evils of copying and counterfeiting because it not only costs the designer money but also discourages artists from producing original and creative works. Coco Channel recently remarked, "One must be different to be irreplaceable," in order to stay up to date with innovation and competition in the fashion industry. The designer must possess exceptional talents and a distinctive, imaginative vision in order to increase sales, which will boost the brand's recognition and financial success. Therefore, infringement of the intellectual originality present in the fashion business has an impact on the economy in addition to discouraging designers.

The prevalence of lax legislation and ignorant consumers who are not aware of the legal ramifications of buying counterfeit goods are the main causes of the flourishing counterfeit fashion markets. Although intellectual property registration is not required, it is usually advisable to do so. In the event of infringement and the assertion of rights over copyright registration, design registration, or trademark rights over a brand, it serves as tangible evidence of ownership over the content. Even said, given the short lifespan of fashion designs and products and the ever-evolving trends in the business, it might not always be a financially viable option for emerging designers and small brands. Although eradicating the problem of unauthorized copying and counterfeiting is a challenging undertaking, the author believes that it can be addressed by adequately safeguarding the invention through registration in order to get exclusive intellectual property rights. Additionally, it would be simpler for the original designer who was violated to sue for damages and demonstrate that the design was theirs and that it had been copied. Another analogy is that a brand can foster brand loyalty among consumers who refrain from buying fake goods due to the high caliber of its goods and services and associated advantages.

Additionally, former employees of design firms may divulge their companies' intellectual property. Both the current employer and the former employer must take effective steps to prevent the usage of other designers' original work as a result of their own creative endeavors.

As a result, designers need to be on the lookout for ways to secure their work. Finally, laws safeguarding the fashion industry's designers' creative output must be passed by the government and properly implemented.