

FASHION LAW AND INTELLECTUAL PROPERTY RIGHTS: COPYRIGHTING DESIGNS, FAST FASHION ISSUES, AND PROTECTING LUXURY BRANDS

AUTHOR – AKSHAY MAHAVIRA, STUDENT AT AMITY LAW SCHOOL PATNA

BEST CITATION – AKSHAY MAHAVIRA, FASHION LAW AND INTELLECTUAL PROPERTY RIGHTS: COPYRIGHTING DESIGNS, FAST FASHION ISSUES, AND PROTECTING LUXURY BRANDS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (13) OF 2025, PG. 706-710, APIS – 3920 – 0001 & ISSN – 2583-2344

ABSTRACT

Fashion, as an ever-evolving industry, stands at the intersection of art, culture, and commerce. The potency of its creativity is balanced by the vulnerability of its production easily copied, rapidly commodified, and frequently globalized with minimal recognition for original creators. The absence of consistent legal protection leads to widespread imitation, counterfeiting, and market dilution, devaluing artistic innovation. This paper explores the connection between fashion and intellectual property rights (IPR), focusing on three principal aspects: the copyrighting of designs, the challenges arising from fast fashion, and the strategies for protecting luxury brands. It analyzes how copyright, design law, trademark protection, patents, and geographical indications collectively shape the legal landscape of fashion. The Indian context is studied beside global frameworks to demonstrate how IPR can promote ethical creativity, sustainable growth, and brand integrity in an increasingly digitalized marketplace.

INTRODUCTION

Fashion is one of the most expressive forms of creativity a living art that conveys social identity, aesthetics, and innovation. However, the very nature of fashion's cyclical and transient character makes intellectual property protection complex. Designers continuously innovate, yet their creations can be replicated within days of release and circulated globally due to mass production and online distribution. This challenge has led to a burgeoning field known as *fashion law*, combining elements of contract law, consumer protection, labor regulation, and especially intellectual property law. Intellectual property (IP) protection ensures that creativity is rewarded, innovation is encouraged, and economic growth is sustained. Legal frameworks for IP provide ownership to those whose mental labor results in products that enrich society culturally and commercially. In fashion, intellectual property rights (IPRs) operate as both inspiration and deterrence they reward creativity while discouraging plagiarism

and unethical competition. In developing countries with emerging creative industries, IP systems are particularly important. They transform individual artistic expression into a valuable economic asset, bridging cultural heritage and modern enterprise. India's vibrant fashion ecosystem from couture designers in metropolitan hubs to rural craftsmanship like handwoven sarees and embroidery exemplifies how IPR can foster inclusive development when implemented effectively.

INTELLECTUAL PROPERTY RIGHTS AND THE FASHION INDUSTRY

Intellectual property encompasses various legal mechanisms designed to protect creative and innovative works that hold value. In fashion, these protections include:

- *Copyright*, covering artistic elements like drawings, patterns, and prints.
- *Design rights*, safeguarding the visual aspects of garments or accessories.

- *Trademarks*, identifying and distinguishing brand names, logos, or distinctive features.
- *Patents*, protecting technological innovations such as material science or production techniques.
- *Geographical indications (GIs)*, ensuring traditional or regional craftsmanship remains authentic to its source.

Each of these protections operates differently in scope and duration but together form a tapestry of legal safeguards that can protect fashion as a creative industry.

However, the challenge lies in applying these categories to fashion's practical reality. A single garment may involve multiple forms of IP simultaneously a printed pattern protected by copyright, a unique shape covered by design registration, and a logo shielded by trademark law. Navigating this overlapping protection requires awareness and strategic planning by designers and fashion houses.

COPYRIGHTING FASHION DESIGNS

Copyright serves as a key instrument for protecting originality. It provides creators with exclusive rights over the reproduction, adaptation, and distribution of their artistic works. In the fashion sector, this applies to the *artistic expression* of textile prints, embroidery motifs, digital illustrations, or sketches not necessarily to the clothing itself. The Indian *Copyright Act of 1957* defines artistic works as paintings, drawings, sculptures, engravings, or other works possessing artistic craftsmanship. Fashion sketches and surface designs thus qualify automatically upon creation and do not require registration for basic protection. However, voluntary registration offers evidentiary advantages in legal disputes. Nonetheless, the main limitation lies in copyright's exclusion of functional features. Clothing serves a utilitarian purpose, and therefore, features such as the cut, shape, or fit are not eligible for copyright. This distinction reflects a longstanding principle of copyright law: it protects *expression* rather than *ideas* or

utility. The United States Supreme Court's ruling in *Star Athletica v. Varsity Brands (2017)* clarified that surface ornamentation on garments may qualify for copyright if it can be identified separately from the item's functional aspects. This recognition of "separable artistic elements" helped strengthen protection for design aesthetics globally. Following this precedent, designers can claim legal ownership of surface-level creativity, even if the garment itself remains unprotected as a functional article. In India, similar protection exists. Designers can register their textile prints, embroidery work, and pattern layouts as original artistic works. Such registration allows them to pursue damages and injunctions against counterfeiters who copy motifs or digital renderings for unauthorized reproduction.

INDUSTRIAL DESIGN PROTECTION

Fashion design often requires a complementary layer of protection beyond copyright. The *Designs Act of 2000* provides a specialized form of protection for the aesthetic appearance of a product its shape, ornamentation, configuration, or surface pattern. Fashion products like handbags, footwear, jewelry, or apparel silhouettes can be registered as designs as long as they are *novel, original, and non-functional*. Once registered, design protection lasts for ten years, extendable for another five years. This exclusive right allows designers to prevent unauthorized copying or imitation. Unlike copyright, it specifically targets the *appearance* rather than artistic authorship. For example, Chanel's quilted handbag pattern, distinct shoe shapes by Louis Vuitton, or unique textures such as Dior's cannage pattern could all qualify for design protection. A challenge arises due to fashion's ephemeral nature. The time required for registration often outlasts a trend's commercial relevance. Hence, design registration is typically pursued only for long-lasting or signature items, not for seasonal collections. Despite this, industries with strong design registration records tend to experience fewer counterfeits and stronger brand valuation

over time. Fashion law theorists suggest developing *fast-track registration systems* for emerging designers, allowing them to obtain faster protection and encouraging smaller enterprises to invest in original designs.

THE ROLE OF TRADEMARKS AND BRAND VALUE

While copyright and design laws protect artistic and aesthetic elements, *trademarks* preserve identity and reputation. A trademark differentiates goods or services of one entity from another, enabling brand recognition and consumer trust. In the fashion world, logos, word marks, monograms, colors, and shapes serve as powerful indicators of quality and status. Indian law under the *Trademarks Act of 1999* gives perpetual ownership of registered trademarks, provided they are renewed every ten years. This enduring protection aligns with the business lifespan of major fashion houses. Globally renowned trademarks such as Gucci's double G, Chanel's interlocking C, Nike's swoosh, and *Tiffany's blue packaging* prove that a brand's power lies not only in creativity but in consistent reputation management. Trademarks contribute immensely to the *intangible asset value*, often representing a majority of a luxury brand's market worth. Fashion brands also pursue *non-traditional trademarks* such as colors, sounds, or specific packaging styles. For instance, the "red sole" of *Christian Louboutin shoes* was recognized as having trademark significance in multiple jurisdictions. In India, designers have also used trademarks to protect unique patterns or signature stitches running through their garments. Trademark protection extends beyond ownership it anchors consumer confidence, informs licensing agreements, and underpins brand partnerships. It is also the primary line of defense against *counterfeiting*.

FAST FASHION: THE LEGAL AND MORAL CHALLENGE

Fast fashion represents the commodification of creativity. Major retail chains have developed mechanisms for translating luxury runway designs into affordable products at lightning speed. While this caters to mass consumer

demand, it often involves unlicensed replication and exploitation of artistic ideas. From a legal standpoint, this phenomenon exposes the limitations of copyright and design law. Many garments fall into a gray area between artistic and functional attributes. Because copyright does not protect clothing cuts and shapes, fast fashion companies can imitate styles with little fear of litigation. The ethical implications are equally concerning. Original designers lose both recognition and revenue, while consumers often purchase garments made under poor labor conditions. Furthermore, the environmental cost of mass production waste, pollution, and resource depletion conflicts with global sustainability goals. Experts advocate blending *intellectual property enforcement* with *sustainability regulation*. Governments and organizations can encourage ethical sourcing, limited production runs, and fair-trade certification. This ensures not only protection of creative works but also accountability for social and environmental impact. International collaboration could address fast fashion through treaties tightening design theft laws, mandating transparent labeling, and incentivizing slow fashion initiatives that promote originality.

PROTECTING LUXURY BRANDS

Luxury fashion thrives on exclusivity, craftsmanship, and brand identity. Protecting these values requires a holistic approach combining multiple IP categories:

- *Trademarks* secure logos, brand names, and distinctive color schemes.
- *Trade dress* protects the overall visual presentation product packaging, store layout, or display design.
- *Copyright* covers original patterns, advertising photography, and artistic campaign materials.
- *Patents* safeguard innovations in materials, production, or wearability technologies.

For example, luxury brands like Hermès, Rolex, and *Prada* invest heavily in IP registration and

monitoring systems. Their success derives not just from design ingenuity but from structured legal strategies that safeguard heritage and exclusivity. In India, domestic luxury brands such as Manish Malhotra, Tarun Tahiliani, and Sabyasachi Mukherjee increasingly follow this global model. Through trademark registration, design enforcement, and licensing agreements, they reinforce their brand identity regionally and internationally. An additional layer of protection for community-based craftsmanship comes through Geographical Indications (GIs). Artisans producing goods such as Pashmina shawls, Madhubani paintings, or Banarasi silk sarees benefit from GI certification that prevents mass producers from misusing heritage labels. This ensures economic empowerment and cultural preservation.

LICENSING AND COMMERCIAL EXPANSION

Licensing plays a pivotal role in fashion's global outreach. It allows IP holders to authorize third parties to manufacture, distribute, or sell products under their brand name for a royalty fee.

Successful licensing depends on clear contracts detailing:

- Territorial jurisdiction of the license.
- Duration and renewal terms.
- Royalty structure and payment schedules.
- Quality control standards.
- Dispute resolution procedures.

For international expansion, licensing enables designers to enter new markets without the logistical cost of direct retail operations. Conversely, poor quality control or lax monitoring can dilute brand reputation, undermining the very protection sought by IPR.

Companies therefore conduct due diligence before choosing licensees to maintain consistent quality and brand ethics. Clauses prohibiting parallel imports, unauthorized sublicensing, and counterfeit manufacturing are essential.

COUNTERFEITING AND ENFORCEMENT MECHANISMS

Counterfeiting is a multi-billion-dollar threat that erodes brand equity and consumer trust. Fake luxury goods, often distributed through online markets, imitate original designs with striking precision. These are not only economic crimes but also public safety issues, as counterfeit items often violate health and safety standards.

Fashion brands combat counterfeiting through a range of mechanisms:

1. *Cease and desist letters* to infringing entities.
2. *Takedown requests* on digital marketplaces through the DMCA or equivalent national laws.
3. *Civil litigation* for injunctions and damages.
4. *Collaboration with customs authorities* to intercept counterfeit imports.
5. *Technological solutions*, including blockchain authentication, RFID tagging, and AI-driven monitoring.

In India, the *Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007* empower customs to detain and destroy counterfeit products. Additionally, brand owners can register trademarks and designs with the Customs Authority for proactive protection.

However, enforcement requires continuous vigilance and cooperation between private and public sectors. Specialized IP courts, online dispute resolution platforms, and awareness campaigns can accelerate justice and deter recurring violations.

ECONOMIC SIGNIFICANCE OF IPR IN FASHION

The economic relevance of IPR extends beyond protecting designs. It boosts innovation, generates employment, and fosters global trade. Studies reveal that countries with robust IP systems tend to attract higher investments and sustain stronger creative industries. Fashion, as part of the creative economy,

becomes a driver of both GDP growth and soft power.

In India, the fashion and textile industry employs millions and contributes significantly to exports. By strengthening IP rights management, local designers can compete globally, attract partnerships, and prevent creative exploitation by foreign entities. Supporting education in IP literacy at design schools ensures young creators understand their legal rights and commercial responsibilities. Furthermore, digitalization is redefining the IPR landscape. As social media and e-commerce platforms dominate brand communication, unique content such as campaign videos, photography, and influencer collaborations now require copyright protection to preserve authenticity and prevent misuse.

CULTURAL HERITAGE, ETHICS, AND SUSTAINABILITY

Fashion's future depends on reconciling creativity with responsibility. Intellectual property not only protects individual rights but also preserves collective cultural identity. Designers inspired by traditional crafts must ensure fair recognition and equitable benefit-sharing with source communities. Geographical Indications (GIs) protect cultural heritage by granting region-specific artisans exclusive commercial rights. They encourage authenticity and deter industrial imitation. Equally, sustainable fashion initiatives align IP with environmental goals: patents for greener materials, trademarks for eco-friendly certification marks, and copyright for digital fashion innovation all point to a future where ethics and efficiency coexist. Integrating these dimensions requires collaboration among designers, consumers, and policymakers. The ultimate goal is a fashion ecosystem that fosters creativity while protecting cultural legacy and ecological balance.

CONCLUSION

Fashion law, supported by intellectual property rights, acts as a cornerstone of global creative

commerce. It transforms art into business while safeguarding the moral and economic rights of creators. Through copyright, design protection, trademarks, patents, and geographical indications, the framework ensures exclusivity and innovation coexist harmoniously. Yet, persistent challenges especially fast fashion, counterfeiting, and cultural misappropriation reveal the urgent need for adaptive and ethical IP regimes. Strengthening enforcement, accelerating design registration, and emphasizing sustainability can empower both established brands and emerging designers. The protection of fashion's intellectual capital is ultimately about fairness recognizing the origin of creativity, valuing artistic labor, and sustaining cultural diversity in a globalized marketplace. As fashion continues to evolve in the digital era, a comprehensive, equitable, and sustainable IP system will define not only its legal foundation but its moral integrity and cultural future.

REFERANCES AND RESOURCES

1. The Copyright Act, 1957
2. [Copyright Alliance: Unified Voice Of The Copyright Community](#)
3. [Intellectual Property for Fashion Industry: Copyrights](#)
4. [Intellectual Property Lawyers UK | Briffa IP Solicitors](#)
5. [LEGAL ARCHITECH - HELPING THOSE WHO NEED](#)