

IP Rights and Fashion Technology - Comparative Analysis in Fields and Continents

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ABSTRACT:

Fashion is one of the industries which is leading the style and progress among all age groups in the world, whereas the technology and designs are concerned, they are made up with damn hard work and it needs a protection. Development in the time line of relationship between Intellectual Property Rights and the Fashion Industry is a flexible on going one amid the advancements in the other sectors which help to promote the Fashion across the globe. Enormous economic growth and revenue generated shows that this industry needs a hardcore protection of its techniques and methods used to generate such a huge amount of fund to sustain, which is only possible when the Designs and Patents are to get designers their absolute rights. These are used to grab attention of its target audience helping the fashion industry to sustain and keep on evolving. Considering the present scenario, it is debatable whether or not fashion designs should get copyright protections or not. The reason being fast fashion, meaning low end designers copy high end designs and produce what we call as “first copy” is the market, which not only infringes the rights of the designer but also hampers the goodwill and the target of the person concerned. So, overall, IP is a primer which fortifies the innovative artistic creations of mind on graphical forms. Although, the degree and gravity of safeguarding is different in US, Europe and India which shows that the initial point was in France, Europe and was followed up by USA and India. The methodology used to create and protect the levels of fashion is too widely described as per the three regions which will show the global distinction and variance.

Keywords: fashion, development, evolution, global, technology.

I. INTRODUCTION

Fashionable goods are worth a billion dollars for the Fashion Houses and that is the reason why the fashion houses want to protect their brand equity so as to get an optimum profit in the future days to come. Whatever the initial start-up investment maybe, there is a significant growth in the designs and outcomes further which holds the tag of goodwill to it. But, there is always an misappropriation in the use of name and such tags by the varying levels of producers and vendors in a country which amounts to production of duplicate or fake goods and services using some exquisite and exclusive brand names for their sale and promotion. Such acts with malafide intentions and wrong denominations steer towards infringements and substantially futile goods which tarnish the reputation of certain brands amounting to the mismanagement. A glamorous industry which runs with the help of superstars and models, is affected only when embezzlement strikes upon geared by public confusion and losses. Therefore, brands are very conscious about their reputation, reality of goods with a particular value and immediate effects how their new innovative designs can be affected by the consumers and wild vendors who just go around the bush selling duplicate products. The leading fashion houses capture the

momentum by instantly registering their designs and techniques under the copyright law and patent law respectively, often protecting their industry by strategic methods too.

A focus should always be there on marketing, distribution, monitoring, controlling, using and promoting a fashion house's trademark, which would always help the consumers decide what is original and why they would want to pay extra for such original products rather than fake ones which would compliment on their looks, style and ideas amongst their peers. Moving onto the trade dress, a new form of configuration of the trademark which determines the design and shape of the product and overallly gives the full picture of the product in a fully descriptive form, it's a classic enrichment of thematic use of products and services of a particular brand. Moreover, multiple strategies can be used also to keep the rich heritage shining on the peak without any endemic issues of either copying down or stealing ideas to stick on somewhere else.¹

II. FASHION RELATED IP RESEARCH AND AFTER EFFECTS

Naive and new consumers don't research much before entering the market which often make them land into a situation where they are very confused and even though, they're cheated by the trademark squatters who misuse the trademark of other brands for their sale. Although, the consumers who are regular into a particular market area may be ditched by some vendors and retail outlets if, such consumers are not that fashion conscious and also, maintain a node which is common in the market. The stylish fashion conscious consumers who are very much concerned about their image in a society throttled by certain brands are the only ones who research deeply about the brand on various aspects such as they perceive the quality of cloth and material used, the recognise the trademark logo or trade dress or the element attached to the dress which will distinguish the cloth from others and many more. This is the real spirit which keeps the brands fit and fine according to their sales rising the new lamp of sustainable growth and fashion which is the only key to success in the future days to come. The mass awareness is a solution which can help consumers recognise a brand and use their skills to distinguish their ideas about another brand in a proper manner, which can be done by effective advertising policies and injunction to the fake products and brands which just creates and increases the consumer confusion.² Such fashionable goods are made up investing a lot of time and creativity upon research so that such attires and accessories must be absolutely new to the consumers for glamorous eyes.

The number of Fashion Weeks hosted across the globe shows how the designs are raising the standards of living in a society, but these fashionable stuffs aren't restricted to clothes only, but also follows up to the sector of accessories and other luxurious products essential for a healthy lifestyle. 'A stitch in time saves nine' is the

¹Barrère, C. and Delabruyère, S., 2011. Intellectual property rights on creativity and heritage: the case of the fashion industry. *European Journal of Law and Economics*, 32(3), pp.305-339.

²Link given as - <https://www.lexology.com/library/detail.aspx?g=6c596a24-e79b-4d39-a73f-9837529d9a78%20on%2018%20th%20Oct,%202014>

perfect line to depict the protection to be invested upon the brands upon saving their brand value and image in the market through absolute registration and maintenance of that protection system. It should be followed up by notifications sent to loyal consumers which would keep a fully resourceful research initiative to be taken by the consumers before reaching any brand store or outlet.³ This can also invest into a huge sum of points and reward schemes into the names of consumers as a classic strategy and this would also maintain a symbiotic relationship between two of them. The majority of after effects tend to loss of brand value, obsessive disorder of the the consumers towards recognising the same products as they wished for before and after use of a particular brand and also, the piracy can't be tracked down ending the same league without any further management. These sums up to many cases exclusively which can be seen in Indian Markets and Street Shopping, being very famous due to cheap prices and non-matching standards of cloth used to produce them. But still then, the psychology and mentality of the people across shopping varies and matters too as ought to expensive clothes may not match the criteria of shopping. Soon after, brand endorsements are declared to be snobbish and impractical.

III. REALITY AS PER CONTINENTS

Scene in Asia and Middle East

As the Asian scene shows that people prefer to walk over streets in a stylish gig and economy of such nations are comparatively low squeezing the people to prefer cheap and easy clothes, it is seen that brands have taken out strategies. Companies like H&M, Zara, Lifestyle and Online platforms such as Baidu, Alibaba, Tencent have given wonderful opportunities too local creative fashion economy and industry, providing a multiple-choice fashionable digital platform to consumers. People in countries like China, Indonesia, Singapore, Thailand, Malaysia and India prefer to trade through such platforms and it has raised around \$1.4 trillion USD. This shows the growth in GDP in the East contributing a lot to the fashion world and countries like Japan, South Korea and China with the help of social platforms like Facebook, PayPal, WeChat, PayTM and Twitter have commercialised the street shopping to the next levels where consumers are free to buy anything online just by simple transfer of payments and easy deliveries.

GentleMonster, an eye wear focused foundation was opened in 2011 in South Korea and it has attracted investments and equity across the globe that allowed it has established stores and outlets all over. Even if, it has promoted online shopping of accessories and it has been expected that it would leap on to segments of apparels. Anita Dongre, a fashion designer in India promoted her brand in India, and with establishment of relation with General Atlantic, has expanded horizons to USA and also, promoting it in the fashion weeks in Europe. So, the

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fashion industry is itself a battleground for the Asians where they would promote and protect their hard work. This can be achieved by the mediums of intellectual property as in Trademark, Trade Dress, Designs, Copyright, Patent and Industrial Designs. Although the IP concepts still lay slow and with hatches, the Middle East countries are going absolutely traditional and follow up singular customs. The fashion is dominated by religion majorly which affects the scenario all over.

European Scene

As discussed earlier too, Europe is the hub of fashion experts and it is considered as the origin or source of fashionable stuffs. Milan, London, Paris, Berlin and Madrid host the amazingly crazy fashion weeks every year and attracts the best crowd in the world for a change in fashion streak introducing new goods and services. It gives a damn good opportunity to so many fashion experts across the globe to present their uniquely made creations. From the 15th century only, the Royal Families preferred great fabrication with the kings granting rights and privileges for weaving of clothes. Even if, penalisation was there for those who couldn't make up new designs and would counterfeit the similar designs by the kings.⁴ Soon, in the 17th century, laws were made by the Empires ruling over the states for the designs and weavers for their exclusive rights upon their creations. European Designer's Community followed their statues with a Regulatory Body in medium so as to witness the degree of visualization of changes of designs and patterns on fabrics over one another. These tiny or small changes along with the gravity of creativity was examined regularly with a proper format and that followed up during the early 2000s. Early inhibitions of rules and statutory developments have shown the love and dedication for protecting the life of fashion for a longer time. It also shows the existence and creation of such innovative rules and statutes for protection of goods is quite necessary.

Although in newer regimes, Europe is considered to be the paradise of simple and sober attires in all styles, it is witnessed that the brands started a tough competition gaining the faith of certain people on terms of region and quality which subsisted to origin. European designers give an effective solution in the unregistered community designs for protection if concerned. This is obtained without any kind of formalities simply by making the design available to the public, and lasts for maximum of three years. Since most designers have become concerned with protection only after becoming a victim of counterfeiting, the unregistered community design provides a welcome alternative to further registration. Lacklustre in the formulation of copyright or design or trademark laws onto the existence is yet to be fulfilled for the satisfactory levels of the fashion world in Europe yet.

⁴Link given as-
https://www.wipo.int/wipo_magazine/en/2008/01/article_0006.html

American Scene

Garments and protection towards them have seen an unusual phase in the United States where fashion has an inherent power to change the mindset and thinking ability of the people around of maybe one or more communities to divest their interests together in a singular manner. If we talk about the fashionable sense of the Americans, it is not that creative and it is mostly borrowed from the Europeans. But, they prefer certain stuffs which are fashionable and classic. America has witnessed the strength of fashion industry in uniting the people but, along with that we can see the IP protection being used diligently in novice ways as in the use of design patent protection over the copyright protection as for better protection with a better scope and perspective.⁵This increases the technicality in the usage and preference of design patent over copyright over the garments, shoes, accessories etc. all because of the infringement issues and doctrine of minimal creativity in copyright helped certain fashion houses and individuals to copy and make minimal changes to declare it a their own from another established design. Therefore, similar to this many cases have been struck up and it can be seen that the trend of Design Patent is spreading across the globe.

Latin America is backwards as compared to North America and the confusions are not there between the protection and usage of three major protective ideas of Intellectual Property as in Copyright, Trademark and Design. Instead, another leading and budding idea of Trade Secrets and Design Secrets are evolving with the time to prefer a new, effective and complex protection idea of the fashionable goods and services. Such innovations put forward the jurisprudence of law or the science behind it motivating for the formation of new acts and laws for a better protection. So, America as far as it is not that developed in the creative senses of fashion, it is way too forward when said about the science of laws and practicality as compared to other continents and it is the best one to make such laws.

IV. SPECIFIC IP WITH FASHION ASPECT

Copyright

In simple words, what does one understand by copyright? Copyright is a branch of IPR which guarantees protection for literary and artistic works. Copyright works are protected under the Copyright Act, 1957 in India for a period of, lifetime of the creator in addition to that, 60 years after his death. Copyright protects, motivates and ensures the creator that there is a protection and remedy if unlawful use of his creativity or infringement of his right or skill is obtained. Copyright is the most appropriate method of protecting the creative expressions of fashion designers. No other method is effective to protect the property interest and value of the garment design or the inherent and complicated nature of the industry. Courts, in denying the protection

⁵Link given as-
https://www.wipo.int/wipo_magazine/en/2018/04/article_0006.html

of copyright and other legal remedies, have stated that copyright protection would still provide a readily workable solution to the problems of design theft, without impinging the free market of ideas.⁶

Now, in order to understand the relation between copyright and fashion technology, one needs to accept the fact that Design laws and copyright laws work more or less simultaneously in relation to fashion technology. Now the question that would pop into someone's head is that how is copyright even related to fashion technology. It is a fact that copyright's 'literary works' means and includes computer programme, tables and compilations of computer databases. Software tools are taken help of for fashion design, software based models are used to check out the design, logistic management is taken help of to analyse the entire value chain and the end result of the market's demand for that particular design. It plays a very vital role in making a position in the competitive global market. One of the major example is that of ZARA using a ingenious IT (information technology) system in order to abridge its production cycle from 4 to 12 months to directly mere 30 days. Its also using a high end technological system of distribution, with some 200 kilometers of underground traces and over 400 chutes ensuring that the finished fashion products are shipped and arrive in stores within 48 hours of its production. Another example is that of Shirdotnet. It is a clothing platform that offers customers an option to design and order apparel directly from its virtual shop. A proprietary software which is protected as a trade secret has been adopted to provide mass customization clothing solutions.

Now coming to the meaning of "artistic", although difficult to define, in general one might say that a work must be seen as aesthetic, appealing to the eyes of the general public/target customers or must be created as an artistic work; it includes drawings, sculptures and artistic craftsmanship. The meaning of it has been considered in number of cases in order to see if it would come in the ambit of copyright and get the copyright protection or not. In a landmark case of *Hensher V. Restawhile* [1976] AC 64, the House of Lords unanimously held that a prototype for a distinctive three-piece lounge suite, which was intended for mass production, was not artistic. The reasons were different and various. For example, a baby's cape would not be considered as artistic, or a patchwork on a bedcover would not be artistic because it is not sufficiently creative, although might be appealing to the customer's eyes. To understand better, another example of importance of creativity and work of art is that of cardigans and sweaters, which are even displayed in Victoria and Albert Museum, but are not to be considered artistic or creative enough, but are rather just an mere example of development and evolution of fashion.

In a more recent case of *Lucas film Limited v Ainsworth*, Lucas lost the case of copyright for the storm trooper helmets which are used in the Star War films. It was not considered to be artistic or even aesthetic, but rather functional in its purpose. It could not qualify as artistic works and thus by dismissing all of his claims regarding

⁶Mencken, Jennifer. "A Design for the Copyright of Fashion." BC INTELL. PROP. & TECH. F. 1997 (1997):

copyright infringement the Supreme Court of United Kingdom held that the helmets were not sculptures, and therefore cannot be protected under the ambit of copyright.⁷The above examples shows us how judges are hesitant to concede that works of fashion could be artistic.

Practically exhibiting “craftsmanship” is easier. Crochet, knitting, tapestry makings and its designs have been treated as art and crafts. In *Hensher v Restawhile*, Lord Reid and Viscount Dilhorne said that the requirement for craftsmanship implies that a work must be hand-made whereas Lord Simon held that "craftsmanship" cannot be limited to handicraft; nor is the word "artistic" incompatible with machine production. There were two different thoughts to the definition of it, one limiting it to the hand-made one, another extending the meaning by telling that it cannot be limited to hand-made crafts.

In the field of sports also, copyrights plays a vital role. It protects any artwork or any audiovisual creations used to publicize the active wear or shoes. Copyright-related rights helps in generating and increasing the revenues, which are needed for broadcasters to invest in the costly ventures and projects to cover and broadcast the sports event.

In general every original work created is automatically protected under copyright, as one of the principles of the Berne Convention states. Berne Convention was a WIPO administered international convention which was for the international protection of Literary and Artistic works. It gave countries some idea in determining how to protect applied art such as fashion (Article 2(7)). To be protected by copyright in the UK, a work must fall within one of the eight categories set out at s.3 of the Copyright, Designs and Patents Act 1988. In general sense and formally, a work of fashion should be an original artistic work, however, case laws do not favor this statement as garments and other works of fashion do not fall neatly into any of the listed sub-categories of artistic works. The category, which would be the most appropriate one is the ‘works of artistic craftsmanship’, which requires a work to be both artistic and a work of craftsmanship to come within the meaning of ‘work of fashion’.

Trademark

Trademark and fashion are deeply rooted. When ‘fashion’ comes to a person’s mind, what does that person think of? Automatically a brand’s name or maybe something related to a particular fashion house.. The mark/ symbol/ style of writing automatically pops up in the mind of a person when a brand comes in mind. That’s the trademark. That’s the mark of the brand that comes to the mind. It helps the fashion industry in various ways. One of the most important things for a fashion house is the brand equity that they have earned over time and with process. Trademark helps the fashion house to create the strong bond in between them and their customers.

⁷Katsouli, Konstantia. "Lucasfilm v Ainsworth: Comments in the light of Greek copyright law." *Journal of Intellectual Property Law & Practice* 8.3 (2013): 226-235.

It majorly helps them is getting themselves protected their brand equity from getting infringed. They are majorly important for the ones who have a competition in the market and are known to the public in majority. Trademark becomes the connection between the fashion house and its customers by becoming a element of the design itself.

Example Louis Vuitton. It uses its mark 'LV' as its logo, and in its designs as a part of it. Another example of it is Burberry; its hold its trademark in both, "Burberry" as well as the Burberry check pattern.

Pickwick is a Italian fashion wear company, whose trademark logo is a young, faceless boy with a spiked hair. It was indeed a very trendy and appealing to the eyes of youngsters. And after a certain period of time, it was noticed that youngsters were willing to pay extra for the clothing and apparel having the logo of Pickwick because of its brand equity. At the initial state of its business, the cost of the clothes was kept low, by operating from a garage. Eventually it gained market because of its appealing logo, and today the company has subcontracted the manufacturing of clothes and focuses majorly on the marketing, distribution, monitoring and controlling the use of its the trademark.

It is not always important that a trademark has to be visible on the garment in itself. It can be subtly displayed as well. For example, on the buttons, on the back, or a small 'label' on the back or inside. Trademark law has also led to the introduction of trade dress i.e. the total image of the product including as size, shape, color or color combinations, texture, graphics or even particular sales techniques.

In connection with a claim of trademark infringement, many designers have attempted to protect their marks and creations by bringing claims of unfair competition. In this way, a designer must show that the sale of a copy is likely to confuse the public, because the public has acquired a "secondary meaning" for the mark. Although some designers who repeatedly utilize their trademarks with their garments and fabric patterns, such as Chanel, Mossimo, Gucci, and Louis Vuitton, may be successful in pursuing such a claim, the majority of designers will be defeated by the transient and seasonal nature of the industry.⁸

Patent

In general and usual, patents protect the technical innovation which are truly new, is novel in nature and is a non-obvious creation. Therefore patent is not an IP tool that would pop into someone's mind so easily when thinking about the fashion technology and fashion industry. Still, technical innovations is one of the ways of putting the textile producer a step ahead in the market. One might think how? There are various examples of it- Novozymes, Suberis, Geox Breathes, etc. A fashion business house getting a patent shows that it has a technical superiority of it in the market, and is therefore clearly superior to its direct competitors. For example,

⁸Mencken, Jennifer. "A Design for the Copyright of Fashion." *BC INTELL. PROP. & TECH. F.* 1997 (1997): 4-at.

inventing a new fabric all together, that is softer, does not need iron, does not crease, etc would attract much more customer and thereby more partners and investors in it.

As mentioned earlier about Novozymes; it is a danish biotech company which developed an technology, which involves an enzyme and microorganism named cellulose for the protection of fabrics. It takes away some of the indigo dye from the denim giving it a worn-out look.⁹

Another being Suberis, it is invented by a Italian Company GrindiSrl. It is a innovative fabric made of cork, said to be as smooth as velvet, light as silk, washable, cannot be scratched, stain-resistant, waterproof and fireproof. This is majorly used in the manufacture of clothing, footwear and sportswear, as well as in many other applications.¹⁰

Patent also plays a very vital role in the field of sports. On field the sportswear used, including the clothing and shoes and the other things worn by the person, are subjected to patent. The technology used to develop these sportswear is protected directly under patents. The technical advances in the betterment of the sportswear are encouraged by patents.

There are some substantive Issues and procedural issues related to grant of patents for fashion technology. Some of the substantive issues being, it is limited to designs which are new and must be novel and non-obvious, which is little difficult to prove; designs are the being re-worked on are not subjected to patent, at times functionality is a problem. Now coming to procedural problems; the whole process of preparing a patent application is very time taking, as its lengthy and is expensive in nature, to top it all, it is uncertain as 1/3 of the applications applied gets rejected.

Patent documents is one of the major things that needs a mention in it, as it contains information that leads to improvements in the said product, makes it easier for the product to enter the market and increase the output. It helps a fashion house to avoid wasting resources, it makes it more economic and time saving. Besides all this a time to time research of patent database helps to know ones present and future competitors, the current trends and demands of the customer in house and abroad, the new technological advancements, possible developments on the existing technology, patents that have expired and have thereby come to the public domain, etc.

Designs

In order to understand how designs and fashion are related, one first needs to understand the meaning of designs, or for that matter industrial designs itself. A design is a plan or drawing which can be represented

⁹Paul, Roshan, ed. *Denim: manufacture, finishing and applications*. Elsevier, 2015

¹⁰RAMÔA, A. F. M. F., DE OLIVEIRA, M. D. G. C., MORGADO, J. D. A., PROZIL, S. O., PEREIRA, M. F. R., SOARES, O. S. G. P., ... & ABREU, J. S. (2019). U.S. Patent Application No. 16/073,990.

graphically and has a dimensional aspect to it; be it three dimensional, which includes the shape of the product, for example a shape of a particular apparel or accessory or two dimensional, which includes the textile prints and dyeing, for example indigo prints, knitting techniques would also be included in designs. Registration of designs by the originator or founder or designer helps them to have a monopoly right over the design which abstains the other competitors in the market from exploiting the original creation of the designer. Designs is one of the major IP tools which is clearly and directly relevant to the the fashion industry.

The parallel development of design and technology is traced back to the emergence of the knitting frame in 1589. The brocade influences from the seventeenth century, which influenced the development of knitting techniques, are apparent, as well as the effect of eighteenth- and nineteenth-century market demands for lace, which strongly encouraged the development of devices for knitted lace production.¹¹

Round the clock amount of time, acute observations of the need of the people(which is subjected to evolution every season), a lot of day and night brainstorming results in a new idea of a design; and after that to execute the idea a huge amount of money is invested in a creation of that new original design each and every time. In spite of so much investment, registration of these designs in order to protect them from infringement is significantly low. And the reason behind not registering the design is often said to be the short product life cycle, which is often not more than six to twelve months, or a season, which does not justify the time and the financial cost involved in the protection of the design in itself.

Registering a design, to start with is not always an costly affair, keeping in mind and considering the level of protection it gives to the designer. It is best for the fashion items having a long life span to file an application for registration under industrial designs to prevent the competitors from using the design. It abstains others from making a copy of it and to fight unethical and immoral competitors who do the same. Creating a classic design piece and not obtaining a protection in time for the same is to give a free enjoyment and free ride to the competitors in the market.

Unregistered form of protection is a protection given in certain regions, such as United Kingdom and the European Union. It is a perk which is available and is extremely useful for the fashion houses and the others in the market of fashion. It is mainly useful for the fashion houses and fashion designers with limited capital turnover and limited budget. It helps them to test their design in the evolving market and then decide about which to register and which not to. In EU the it is available for a maximum period of three years, starting from the date on which the design is first made available to the public in any of the 25 countries of the EU.

¹¹ Matković, Vesna Marija Potočić. "The power of fashion: The influence of knitting design on the development of knitting technology." *Textile* 8.2 (2010): 122-146.

Although fashion is subjected to constant change and evolution on the bases of choice of the people, season, etc, there is some fashion which never passes or go out of trend, considering they are a classic and a millennium's creation and are one of its kind. For example, Hermès for the classic “Kelly” Bag; or one may always cite the example of the classic Chanel suit, designed by Coco Chanel in the year of 1930, which is still sold today at the cost of US\$5,000 a suit.

Even in the area of sports, designs play one of the major roles as a tool of IP. There are various sportswear, specialized for various things, and if one notices, they look very different from another. For example, football shoes, they looks very different and have a different name for each of its model. Designs protect the ‘look’ of the shoes.

It is offered in Hague System, the European Union community mark, and many other systems which are national in nature, to request at the time of filing and not after that, that the publication of the application to public be deferred for up to 30 months, in order to keep their designs confidential until the time it is released and come to the market for public use.

V. CONCLUSION

Viewpoint of many different fashion houses and designers in reference to the copyright and infringement¹² may vary but, the ultimatum is regarding the facts and the laws concluding to a fair justiciable action, which also varies from State to State. In this grave and provocative situation, one party has to bear the loss anyway by putting off the already made designs or already sold fashion goods. So, in this field of creativity, the doctrine of minimal creativity is exhausted and the fair dealing and usage policy is bit violated anyway because of increasing number of fashionable goods and companies running into the market. So, moral rights can be put into picture to safeguard the ethical valuation of goods, rights of the producers of such fashionable goods and the legacy can continue to produce new fashion trends in the market. Copyright doesn't support the monopoly of a company based on one color or cut or textile designs at all, rather, the new innovation created by these entities is highly recommended and advised. Fashion industry and Intellectual Property Rights are deeply rooted, and fashion industry's rights are protected under the ambit of IP. It is a monopoly right that is given to the mind of the individual creator or fashion house, who invest a lot of time and money for the fashion that they have created. For example, a creation of new original sketch, is given a copyright; meaning it cannot be copied, circulated/distributed to the public, or even get publicly displayed without their permission. The restrictions and limitations by the monopoly and the term of protection granted by the copyright regime would have the effect

¹²Link given as- <https://www.thefashionlawchronicles.com/blog/copyright-in-fashion-case-studies>

of abstaining the free flow of distribution and dissemination of fashion trends, which happens to be an integral part of the fashion industry.

It is an old habit of the fashion industry, which dates back to time immemorial, that it ignores the act of misappropriation by the small reproducers. There are times of unauthorized imitation in case of personal consumption; where individuals may get the design imitated by their local tailors. People often do that, in order to cut the cost of production and in order to pay a lesser amount. In spite of number of legislation to reduce unauthorized imitation and piracy and other acts which causes infringement of the rights of the creator, the inherent characteristic of fashion industry makes piracy a positive test towards knowing the popularity of the particular brand.

Fashion industry and Intellectual Property Rights are deeply rooted, and fashion industry's rights are protected under the ambit of IP. It is a monopoly right that is given to the mind of the individual creator or fashion house, who invest a lot of time and money for the fashion that they have created. For example, a creation of new original sketch, is given a copyright; meaning it cannot be copied, circulated/distributed to the public, or even get publicly displayed without their permission. The restrictions and limitations by the monopoly and the term of protection granted by the copyright regime would have the effect of abstaining the free flow of distribution and dissemination of fashion trends, which happens to be an integral part of the fashion industry.

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