

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 7 | Issue 5

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2024

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# Trade Secrets in the Fashion Industry

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## ABSTRACT

*In the fashion sector, trade secrets are vital resources that contribute to a company's competitive advantage. This research paper discusses the complicated world of trade secrets in the fashion industry, by investigating their background, the laws governing them, and the different kinds of secrets that fashion brands keep under cover. The study discusses historic trade secret disputes and the insights they give using historical context and case studies. It addresses the continuous issues brought on by employee mobility, cybersecurity concerns, and counterfeiting while examining the different protection techniques used by fashion companies, including technological, operational, and legal measures. Furthermore, this research examines the moral and societal dimensions of trade secret protection while examining how it affects competition and creativity. It also offers predictions for future trends by analyzing how changes in industry, law, and technology will affect trade secret protection as it relates in the fashion sector. This research paper share attempts to provide useful advice for fashion companies looking to protect their trade secrets and stay competitive by providing a thorough summary.*

**Keywords:** Trade Secrets, Fashion Industry, Intellectual Property (IP), Design Protection, Non-Disclosure Agreements (NDA), Non-Compete Clauses, Cybersecurity, Proprietary, Information, Sustainability, Innovation, Competitive Advantage.

## I. INTRODUCTION

The fashion companies, which are known for their uniqueness along with its velocity, mostly relies upon preserving their competitive advantages through unique patterns, cutting-edge materials, and exclusive procedures. Trade secrets represent the exclusive business knowledge that gives businesses an advantage over their competitors and are at the core of these competitive advantages. Trade secrets are both a valuable and risky asset because they are not publicly revealed, unlike patents or trademarks. Trade secrets are not a new idea. However throughout time, their importance in the fashion industry has changed significantly. Trade secrets cover a wide range of information, from formulating a special dye to preserving elaborate patterns and designs. In a highly competitive industry, fashion companies success or failure may depend on their capacity to keep these secrets safe.

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In-depth discussion of trade secrets in the fashion industry is provided in this research paper. It commences by providing an explanation of what trade secrets are and why fashion companies need them. To show how trade secret protection has developed and how important it is becoming, a historical perspective is given. Through an emphasis on intellectual property law and a comparative study of various nations' approaches to this problem, the legal framework governing trade secrets is studied.

There are many different kinds of fashion –specific trade secrets that are recognized, including as supply chain management, designs, textiles, manufacturing techniques, and marketing plans. Legal and operational protection measures are explored to show how businesses might protect their trade secrets. The obstacles and threats to trade secrets –such as employee mobility, cybersecurity concerns, and counterfeiting-are also covered in this research.

The paper provides insights into prominent trade secret conflicts through comprehensive case studies, thereby imparting valuable lessons that other organizations might apply. In addition, the ethical and social aspects of trade secret preservation are examined, along with how it affects industry rivalry and innovation.

The research paper concludes by looking ahead and analysing patterns and prospective advancements that might have an impact on trade secret protection in the fashion sector. It attempts to give fashion companies useful insights and suggestions for safeguarding their private information and preserving their competitive edge in a constantly changing market by giving a thorough analysis.

## **II. EVOLUTION OF TRADE SECRETS IN FASHION INDUSTRY**

The manner in which trade secrets have changed within the fashion industry is indicative of larger developments in technology, business methods, and intellectual property laws. This evolution offers valuable understanding of how fashion companies have traditionally safeguarded their confidential data.

**Early Beginnings:** Trade secrets were often highly guarded aspects of craftsmanship and skills that were passed down through the generations in the early days of fashion. For instance, the trade secrets that tailors employed to make custom clothing were essential to their operations. Usually, these secrets were kept in close, trusted circles and were not formally recorded.

**The Rise of Couture:** In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, the fashion industry saw the emergence of haute couture as a separate sector. In Paris, designers such as Charles Frederick Worth created a tradition of producing one-of-a-kind pieces for high-end customers. These

designs ‘exclusivity was frequently preserved by strict confidentiality, with designers jealously guarding their techniques, patterns, and fabric sources.

**Industrialization and the Origins of Contemporary Style Standardization and Mass Production:** The fashion business experienced a surge in rivalry as a result of mass production brought about by the industrial revolution, which also made clothing more affordable. Trade secret protection started to take more formal forms at this time. Manufacturing companies began to value mass production techniques like the creation of novel weaving or dyeing procedures as trade secrets.

**Fashion and Patent Laws:** New textile dyes and weaving processes were among the fashion advancements that were patented as patent laws evolved, but rather of being patented, a lot of elements of fashion, such production processes and design patterns, were frequently retained as trade secrets, giving designers a competitive advantage without having to reveal their techniques to the general public.

#### **(A) Formalisation and Legalization in the 20<sup>th</sup> Century**

- **Acknowledgement by Law:** Trade secrets gained more legal legitimacy in the second half of the 20th century. The United States enacted the Uniform Trade Secrets Act (UTSA) in 1979, which established a legal framework for trade secret protection. This law emphasized the value of confidentiality and gave businesses a legal foundation on which to pursue redress in cases of misappropriation.
- **Globalization and Intellectual property:** The safeguarding of trade secrets grew increasingly difficult as the fashion business went worldwide. Businesses have to protect their trade secrets and negotiate various legal environments in several jurisdictions. International agreements have set basic requirements for trade secrets protection globally, such as the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).
- **The Digital Age: Innovations and Difficulties Technological Progress:** With the introduction of digital technology, trade secret protection faced new possibilities as well as obstacles. The likelihood of cyber espionage and digital theft has escalated due to the growth of digital design tools, online marketing, and e-commerce. Businesses now need to create new protocols, such encryption, secure servers, and cybersecurity safeguards, to safeguard their digital assets.
- **Enhanced Inspection and implementation:** As international trade expands, protecting trade secrets has become in importance. Businesses are depending more and more on

legal tools to safeguard their sensitive data, like trade secret audits, non-compete agreements, and non-disclosure agreements (NDAs). Significant decisions have shaped the legal landscape, demonstrating the courts' increased proficiency in addressing disputes involving trade secrets.

- **Innovation and Sustainability:** There has been a change in the fashion business recently towards ethical and sustainable practices. Trade secrets have changed as a result of this transformation, with businesses now placing more of an emphasis on environmentally friendly materials and production techniques. It is now just as important to preserve these innovations as it is to protect conventional design secrets.
- **Emerging Risks and Techniques:** The fashion sector is currently dealing with a number of challenges, such as sophisticated cyber-attacks and the increase in fake goods. Businesses are implementing cutting-edge technology to protect their trade secrets, such as blockchain for supply chain transparency and AI for predictive analytics.
- **Legal and Ethical Consideration:** Lawsuits and business practices are still being shaped by the continuous discussion over how to strike a balance between innovation and trade secret protection. Discussions in the sector are starting to focus more and more on ethical issues, such as how trade secret protection affects innovation and fair competition.

This historic perspective makes it clear how the fashion industry's approach to trade secret protection has evolved over time to accommodate new legal frameworks, commercial practices, and technical improvements. The methods and structures for preserving the priceless trade secrets that fuel the sector's creativity and prosperity will also change as it does.

### **III. LEGAL FRAMEWORK FOR TRADE SECRETS IN THE FASHION INDUSTRY**

The trade secret laws in the fashion industry are a component of a larger intellectual property (IP) law system that is intended to safeguard important corporate data. While trade secret laws differ from one jurisdiction to the next, they are always based on common goals of keeping private information that gives businesses a competitive advantage hidden from competitors. The main facets of trade secret protection under international, national, and sector-specific legal frameworks will be discussed in this section.

**Understanding What a Trade Secret is** Trade secrets are defined legally by three key factors:

- **Confidentiality:** The data must not be widely known or easily accessible by the general public.
- **Economic Value:** The secret must give its possessor a financial benefit or a competitive edge.
- **Reasonable Efforts to Protect:** The owner is required to use reasonable means, such as internal security measures or non-disclosure agreements (NDAs), to preserve the confidentiality of the information.

### **(A) International Legal Framework**

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) The World Trade Organisation (WTO), which oversees the TRIPS Agreement, establishes minimal requirements for trade secret protection around the world. According to Article 39 of TRIPS:

- **Protection of Confidential Business Information:** Nations are required to offer safeguards against the unlawful use or disclosure of private company data.
- **Fair Practices:** Under TRIPS, nations must enact legislation to guard against unfair competition, which includes the theft of trade secrets.

International fashion enterprises must be aware of TRIPS's regulations as it plays a crucial role in unifying trade secret laws across nations.

Trade secret protections are recognised internationally thanks to TRIPS, which guarantees this for many fashion brands that operate in many jurisdictions.

#### **a. The European Union (EU) Directive on Trade Secrets**

In order to standardise trade secret protection throughout its member states, the EU established the Trade Secrets Directive (2016/943). Important components consist of: **Definition and Scope:** The Directive emphasises value, confidentiality, and appropriate protective measures when defining trade secrets, much like TRIPS does.

- **Remedy for Misappropriation:** The Directive specifies particular redress for misappropriation of trade secrets, such as injunctions and damages reimbursement.
- **Protection in Legal processes:** The Directive offers safeguards to protect sensitive information during judicial processes, including trade secret confidentiality.

This Directive provides a unified standard for European fashion businesses, making trade secret protection easier to manage throughout the area and enabling them to operate more effectively across different EU member states.

## **(B) National Legal Frameworks**

### **a. United States**

Uniform Trade Secrets Act (UTSA) of the United States: The UTSA, which is ratified by the majority of US states, establishes and regulates trade secret protection. It enables businesses to pursue damages and injunctions as legal remedies for trade secret theft.

The Defend Trade Secrets Act (DTSA), which was passed in 2016, gives businesses the right to file civil lawsuits for trade secret misuse in federal courts. By enabling businesses to sue in federal court and offering instruments like seizure orders to stop the spread of trade secrets that have been stolen, this act improved the safeguards for trade secrets.

Fashion businesses in the United States are able to take legal action to safeguard their proprietary information because they enjoy strong trade secret protections under both state and federal law.

### **b. China**

Anti-Unfair Competition Law: This law, which defines trade secrets similarly to those in other countries, protects trade secrets in China. Businesses whose trade secrets are stolen or revealed illegally have legal rights.

Recent Reforms: In response to international pressure, China has reinforced its trade secret safeguards in recent years. Stricter fines for misappropriating trade secrets and increased protections for companies looking to defend their rights in Chinese courts are two benefits of the new rules.

For companies that operate in or source from China, comprehending and negotiating these legal frameworks is essential, given China's prominence as a significant hub for the fashion manufacturing industry.

### **c. India**

Common Law Protections: Although India does not have a distinct trade secrets statute, trade secrets are nonetheless protected by common law doctrines pertaining to equity, tort law, and breach of contract. Non-compete and non-disclosure agreements (NDAs) are enforced by Indian courts to safeguard proprietary corporate data.

Industrial Disputes Act: Companies that violate secret business procedures may file a claim under this act for relief.

Due to the lack of a specific trade secret statute in India, contracts are essential for ensuring

protections for fashion companies operating here.

#### **IV. ELEMENTS OF TRADE SECRET PROTECTION IN FASHION**

##### **(A) Contracts and Non-Disclosure Agreements (NDAs)**

Contracts are one of the main tools used by fashion companies to safeguard their trade secrets. In the fashion sector, NDAs are frequently used, especially when addressing:

**Designers and Workers:** To guarantee that workers, designers, and contractors don't provide competitors access to confidential knowledge.

**Manufacturers and Suppliers:** Fashion firms frequently demand that suppliers sign non-disclosure agreements (NDAs) in order to prohibit the sharing of information regarding fabrics, designs, or production techniques when outsourcing manufacturing processes.

**Business Partners:** In order to safeguard sensitive information, NDAs also apply to joint ventures with distributors, marketers, and retailers.

##### **(B) Non-Compete Clauses**

Non-compete clauses in employment contracts forbid workers from working for rival companies or launching rival companies within a certain amount of time. These provisions shield fashion corporations from former employees disclosing confidential business information.

##### **(C) Litigation and Remedies**

Fashion brands have access to various legal remedies in cases of trade secret misuse, such as:

**Injunctions:** Courts have the authority to provide injunctions in order to stop stolen trade secrets from being used or disclosed in the future.

**Damages:** Companies are entitled to compensation for the financial losses incurred as a result of trade secret theft.

**Criminal Penalties:** Theft of trade secrets may give rise to criminal accusations in some jurisdictions, which may carry fines or jail time.

#### **V. ENFORCEMENT AND CHALLENGES**

The enforcement of trade secret protections is a challenge for fashion enterprises, even with established legal frameworks. Among these difficulties are:

**Cross-Border Enforcement:** Because the fashion sector is international in scope, it can be difficult to enforce trade secret rights in several jurisdictions. Different legal standards and



processes can make enforcement more difficult.

**Cybersecurity and Digital Theft:** The increasing popularity of online communication and digital design has raised the danger of cyber theft. In order to safeguard their digital assets, fashion companies need to implement strong cybersecurity procedures.

**Employee Mobility:** The fashion business is renowned for its high employee mobility, which makes it challenging to stop former workers from purposefully or unintentionally giving competitors access to confidential information.

National legislation, international agreements, and industry-specific practices have established the complex and dynamic legal environment for trade secret protection in the fashion sector. Fashion businesses have to carefully negotiate these frameworks, using internal controls, contracts, and legal action to preserve their confidential data. Companies will need to be alert in adjusting their trade secret protection plans to meet new difficulties as the industry continues to grow with technology advancements and globalisation.

### **(A) Types of Trade Secrets in the Fashion Industry**

Trade secrets in fashion industry refer to a broad range of confidential information that enhances a brand's advantage over competitors. Trade secrets, as opposed to other types of intellectual property such as patents or trademarks, are kept private and undisclosed to the public, enabling fashion firms to conceal their unique methods, materials, and tactics from rivals. The main types of trade secrets that are frequently safeguarded in the fashion industry are listed below:

#### **1. Designs and Patterns**

Innovative patterns and designs created by fashion corporations are frequently shielded as trade secrets, particularly in the early phases of product development before they are made public. Trade secrets, as opposed to copyright protections for particular designs, cover:

**Prototypes and preliminary designs used in pre-production Work:** include fabric patterns exclusive to a designer's collection as well as technical drawings.

**Creative design ideas:** Prior to being made public, certain innovative design ideas or trends are kept under wraps.

**Specialised stitching and cutting procedures:** Stitching techniques and design cuts that yield unique patterns may also be regarded as trade secrets.

#### **2. Fabric and Materials Innovation**

In the fashion industry, the creation of novel textiles and materials is a vital trade secret,

particularly for companies that want to differentiate themselves with distinctive textures or functional elements. Important instances consist of:

**Exclusive textiles:** Certain companies create tailored textiles with unique textures, strength, or visual appeal (such as moisture-wicking or wrinkle-resistant materials).

**Materials that are sustainable:** Creating eco-friendly textiles with recycled fibres or plant-based substitutes has emerged as a major field of innovation in recent years. Companies that create exclusive sustainable materials frequently maintain these as trade secrets in order to stand out from competitors.

**Techniques used in fabric treatment:** Procedures like printing, dyeing, or coating textiles to produce certain hues, textures, or levels of durability may be highly held trade secrets.

### **3. Manufacturing Processes**

The fashion industry depends heavily on manufacturing, and exclusive techniques for creating clothing more quickly or with higher quality might be valuable trade secrets. As examples, consider:

**Production methods:** Businesses may have proprietary methods for cutting, stitching, or putting together clothing that lower expenses or boost productivity.

**Automation and robotics:** In the production process, proprietary automation technologies that improve waste reduction or quality control are frequently kept under wraps.

**Textile treatment procedures:** Certain techniques for treating fabrics, like stain resistance, weatherproofing, or other treatments that improve performance, are highly guarded.

### **4. Sourcing and Supply Chain Management**

In the quick-paced fashion sector, effective supply chain management can be a significant competitive advantage. Businesses frequently see their sourcing tactics and connections with suppliers and manufacturers as exclusive information. Important components consist of:

**Supplier relationships:** Exclusive contracts with manufacturers or fabric mills to obtain special materials or guarantee premium output at a reasonable cost.

**Logistics and distribution networks:** Fashion firms may save a lot of money and run their operations more efficiently by employing proprietary knowledge about how they handle their supply chain, including preferred shipping routes, warehousing, and inventory management.

### **5. Methods for Dyeing and Formulating Colours**

Fashion businesses that are recognised for their vivid, coherent, or distinctive colour palettes

can stand out from the competition thanks to their innovative dyeing procedures and colour formulation techniques. Important secrets could consist of:

Custom colour formulations or dyeing techniques that guarantee consistency or produce distinctive hues are known as proprietary dye formulae.

Eco-friendly dyeing methods: Since water conservation and environmental sustainability are major concerns, companies that create new eco-friendly dyeing methods or water-saving technology frequently keep them as trade secrets.

## **6. Branding and Marketing Techniques**

Marketing methods have a crucial role in fashion firms' ability to establish and preserve brand loyalty. These tactics frequently qualify as trade secrets and may include:

Brand positioning tactics: Exclusive techniques, such as distinctive branding concepts, advertising programs, and market segmentation strategies, for focussing on particular consumer demographics.

Launch schedules and tactics for product releases: Fashion houses maintain the privacy of their marketing schedules, particularly when introducing new collections or partnering. Promotional campaigns, influencer relationships, and timed announcements can all be kept under wraps until they're formally unveiled.

## **7. Technology for Retail and Online Sales**

For the purpose of improving their retail or online businesses, numerous fashion firms have created exclusive technology. In order to obtain an advantage in a cutthroat market, these technologies frequently consist of:

Personalised virtual fitting rooms, e-commerce platforms, or inventory management systems that optimise workflow and enhance customer experience are examples of proprietary software.

Sales strategies: In-store and online sales tactics, including discount management, pricing algorithms, and special customer care approaches, are also highly valued trade secrets.

### **(B) Challenges and Threats to Trade Secrets in the Fashion Industry**

#### **1. Employee Movement and Turnover**

Employee turnover is common in the fashion industry, especially among executives, designers, and technical workers.

#### **2. International Supply Chains and Outsourcing**

The fashion industry's global reach and the fact that many of its members outsource their

manufacture to unaffiliated third parties make trade secret protection vulnerable.

### **3. Threats to Cybersecurity and Digital Transformation**

Trade secrets are vulnerable to cyber risks as fashion design, production, and marketing become more digitally orientated. The fashion sector is more vulnerable to cyber-attacks because it depends more and more on digital tools for supply chain management, e-commerce, and design.

### **4. Theft and Plagiarism**

The fashion sector continues to face a persistent challenge from counterfeiting. Trade secrets may be lost as a result of criminal activity or dishonest rivals copying exclusive designs, textiles, or production methods.

### **5. Partnerships and Collaborations**

Collaborations between digital firms, fashion businesses, and other industries are becoming more and more common, particularly when it comes to producing unique items or limited-edition collections. Trade secrets are at risk from these alliances, even though they also present new opportunities.

### **6. Product Leaks before Official Launch**

Fashion brands rely heavily on secrecy to generate buzz around product launches, runway shows, and new collections. However, leaks of new designs or strategies before official launches can significantly impact a brand's competitive advantage.

## **VI. CASE STUDIES ON TRADE SECRET PROTECTION IN THE FASHION INDUSTRY**

Case studies offer important insights into the tactics used by real-life companies to maintain their competitive edge in the face of obstacles and threats to their trade secrets.

**1. The 2015–2016 Adidas v. Sketchers Case:** Preserving Design Innovation  
Synopsis of the Case: Adidas, a well-known international sportswear brand, is involved in multiple legal disputes to safeguard its trade secrets and exclusive designs. The most notable instance happened in 2015 when Adidas sued Sketchers, claiming that the latter had stolen its trade secrets for product development and marketing in addition to the famous 'Stan Smith' sneaker design.

**2. Flyknit vs. Primeknit Technology in Nike v. Adidas (2014):** Case Summary Nike introduced their 'Flyknit' technology in 2012, a ground-breaking trainer design composed of a single, continuous strand of yarn. Adidas unveiled "Primeknit" technology shortly after, which employed a knitted structure as well for lightweight, high-performance shoes. In 2014, Nike

filed a lawsuit against Adidas, claiming that the latter had stolen its patented design and violated its trade secrets pertaining to the production of Flyknit apparel.

**3. Christian Louboutin vs. Yves Saint Laurent (2012): Safeguarding Brand Identity** In 2011, Christian Louboutin—famous for its shoes with red soles—filed a lawsuit against Yves Saint Laurent (YSL) for marketing red shoes in monochrome with red soles. The crimson sole, according to Louboutin, is a crucial component of their brand identity and is shielded as a trademark and trade secret.

**4. Guess versus Gucci (2009): Preserving Design Elements:** Synopsis of the Case: Gucci filed a lawsuit against Guess in 2009, alleging that the latter had stolen some of its trademark designs, such as the diamond motif, the famous interlocking "G" logo, and the green-red-green stripe pattern. Gucci asserted that Guess had tarnished the reputation of its luxury brand by methodically copying its trade secrets to produce cheaper knockoffs.

These case studies demonstrate the variety of obstacles that fashion firms must overcome to safeguard their trade secrets, ranging from fabric advances and workforce mobility to brand identity theft and design piracy. In order to successfully protect trade secrets in the fashion sector, a variety of legal strategies, such as non-compete agreements, trade dress, trademarks, and litigation, are frequently needed. These instances also highlight how crucial it is to uphold strict corporate policies and enforce intellectual property rights in order to protect competitive advantages in a field that is known for its rapid invention and continual copying.

### **(A) Future Trends in Trade Secret Protection in the Fashion Industry**

#### **1. Cybercrime and Digital Theft**

Trade secrets are becoming more vulnerable to hacks as fashion companies use digital tools. Cybersecurity is critical because hackers may try to obtain private design files, marketing plans, or product blueprints:

**Enhanced Cybersecurity Measures:** Fashion companies will need to make significant investments in sophisticated cybersecurity systems, including as data encryption, safe cloud storage, and AI-powered monitoring tools to identify breaches, in response to the growing threat of cybercrime.

**Data Access Control:** Strict data management guidelines and role-based access control (RBAC) will be essential in limiting employee access to private digital information and averting internal leaks and illegal access to trade secrets.

#### **2. Globalisation and Cross-Border Trade Secret Protection**

International Trade Secret and Intellectual Property Harmonisation: With the increasing globalisation of the fashion business, brands have to manage a convoluted web of international intellectual property regulations. Companies that operate in various markets may be vulnerable because to the absence of harmonisation between the trade secret protections of different countries:

**Cross-Border Legal methods:** In order to safeguard trade secrets, ensure local laws are followed, and defend their intellectual property internationally, fashion companies will progressively employ cross-border legal methods. This could entail taking part in multinational lawsuits and collaborating with foreign IP enforcement organisations.

**Harmonisation Efforts:** Trade secret protection rules may be harmonised more internationally, especially in areas with significant fashion markets like China, the United States, and Europe. To assist businesses in securing their intellectual property in international supply chains, trade agreements may contain provisions addressing uniform protection of trade secrets.

## **VII. CONCLUSION**

The fashion industry is evolving due to globalisation, changing consumer expectations, and technology improvements, making trade secret protection more and more complex. To keep a competitive edge, trade secrets—which include exclusive design processes, materials, manufacturing methods, and digital innovations—are essential. But additional obstacles to keeping these secrets secure include the increasing demand for transparency in sustainability initiatives, the emergence of digital tools, and the fashion industry's adoption of technology. Fashion brands have to carefully balance safeguarding their confidential information with creating an atmosphere that encourages moral behaviour, teamwork, and creativity as they innovate. While insufficient protection might expose businesses to theft and unfair competition, excessive protection can hinder innovation and competition. In response to the industry's increasing globalisation and digitisation, legal frameworks and enforcement procedures will develop further, providing businesses with more robust protection. In the future, fashion firms will need to take stronger cybersecurity precautions, manage the nuances of international intellectual property regulations, and work responsibly with the digital and sustainability sectors. How successfully businesses adjust to these changing dynamics and strike a balance between the need for transparency and ethical responsibility and secrecy will determine the future of trade secret protection in the fashion industry. The fashion business can continue to spur innovation while upholding morality and credibility in this way.

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