
THE INTERSECTION OF FASHION LAW AND INTELLECTUAL PROPERTY: INDIA V. GLOBAL STANDARDS

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ABSTRACT

Intersection introduces a new dimension to existing fields, demonstrating how two distinct areas can function more efficiently when combined. Similarly, the intersection of Intellectual Property Rights (IPR) and Fashion Law has paved the way for significant advancements, strengthening legal protections and fostering innovation in the fashion industry. As fashion continues to evolve in the digital era, robust legal frameworks are essential to address challenges such as counterfeiting, trademark dilution, unauthorized replication of designs.

The central hypothesis of this paper is 'India's approach to fashion law and IPR remains significantly narrower and less equipped than global standards.' This paper explores the intersection of Intellectual Property Rights and Fashion Law, examining their role in protecting creativity and innovation in the global fashion industry. It examines the application of copyright, trademark, design, and patent laws, within the fashion sector highlighting how these legal tools influence brand value, originality and consumer trust. Through a comparative analysis of India, the United States, and the European Union, this study evaluates the effectiveness of each jurisdiction's legal mechanisms.

In India, the design protection is governed by the Designs Act, 2000, while copyright laws offer limited safeguards due to the mass-production clause. Trademarks, however, are vital for maintaining brand identity. Conversely, the U.S and EU frameworks offer broader and more integrated protection through design patents, trade dress, unregistered community designs and cumulative rights.

Despite existing protections, the fashion industry continues to face significant hurdles such as fashion piracy, weak enforcement and rising online infringements. The study underscores the need for harmonized international legal frameworks to balance creativity, commerce and consumer rights. The paper emphasizes strengthening enforcement

mechanisms, promoting global cooperation and raising awareness about IPR in fashion for sustainable industry.

Keywords: Fashion Law, Intellectual Property Rights, Copyright, Trademark, Design Protection, Counterfeiting, Knockoffs, Fashion Piracy, India, U.S., European Union.

1. INTRODUCTION

Fashion, styling, accessories, makeup etc are more than just aesthetic choices – they are deeply intertwined with an individual's confidence, social status, and personal interests. In recent years, there has been a notable rise in fashion consciousness, particularly among young people, including men. As we step outside, we witness an increasing number of individuals dressed elegantly, carefully curating their outfits, bags, shoes, accessories, and makeup to enhance their appearance. Dressing well and presenting oneself with sophistication has long been a societal norm, but fashion today extends beyond mere clothing – it is a statement of identity and selfexpression.

However, what we see and use daily as finished products are the result of immense creativity, craftsmanship, and brand uniqueness. Behind every iconic product lies the hard work, innovation and legacy of a brand. A Chanel handbag, Yves Saint Laurent heels, a Dior lipstick, a Sabyasachi lehenga, or a pair of Crocs are instantly recognizable – what makes them stand out? It is their distinctiveness, the signature logos, superior quality, trust and individuality that define a brand's identity. As Coco Chanel famously said, 'Fashion is not something that exists in dresses only. Fashion is in the sky, in the street; fashion has to do with ideas, the way we live, what is happening'.¹ This underscores the profound impact of fashion on society.

With the rise of influencers and platforms like Instagram, fashion has become more accessible and influential across all sections of society. Beauty and fashion have seamlessly integrated into daily life. This growing demand for fashion and luxury products highlights the need to protect the originality and exclusivity of trusted brands. This is where Intellectual Property Rights (IPR) intersects with Fashion Law. Establishing a brand is a dream for many entrepreneurs, but with success comes challenges – counterfeiting, knockoffs, trademark infringement, trade secret leaks and design piracy. Protecting these aspects is crucial for

¹ Quotes of Coco Chanel, *available at*: <https://www.goodreads.com/quotes/12859-fashion-is-not-something-that-exists-in-dresses-only-fashion> (last visited on 26 April, 2025).

sustaining brand integrity and maintaining consumer trust. Therefore, IPR plays a fundamental role in the fashion industry, safeguarding innovation, ensuring fair competition, and upholding the essence of creativity in a rapidly evolving market.

This paper explores the intersection of IPR and Fashion Law, focusing on the legal mechanisms available to protect creative works. It examines copyright, trademark, design and patent laws highlighting their application to fashion. Through a comparative analysis of India, the United States and the European Union, this study identifies the strengths and shortcomings of existing legal protections, emphasizing the need for a more comprehensive framework in India.

2. BACKGROUND OF INTELLECTUAL PROPERTY LAW IN FASHION INDUSTRY

WIPO defines Intellectual Property as the ‘creations of mind, such as inventions; literary and artistic works; designs and symbols, names and images used in commerce’.² The origins of Intellectual Property Rights can be traced back to 6th century BCE in Ancient Greece, where the city of Sybaris granted bakers exclusive rights over their culinary innovations for a year.³ This early recognition of intellectual property laid the foundation for the concept of exclusivity in creative endeavours. However, with the rise of the Roman Empire, these principles took a backseat. Around 480 CE, Emperor Zeno abolished the idea of sole proprietorship over artistic and agricultural works, marking a significant shift in the perception of intellectual ownership. It was only with the resurgence of humanism – influenced by Aristotelian and Platonic philosophies – that society gradually moved toward recognizing intellectual contributions, eventually leading to the Enlightenment and the development of modern IP laws.

By the early 19th century, the need for global protection of intellectual property became evident. This led to the adoption of the Paris Convention of 1883, which facilitated international cooperation in IP regulations. Soon after, the Berne Convention of 1886 extended similar protections to literary and artistic works, reinforcing the global commitment to safeguarding intellectual creations. The evolution of Intellectual Property Rights reflects society’s progression in balancing individual creativity, economic interests and legal protections.

² What is Intellectual Property, (Uganda Registration Service Bureau), *available at*: <https://www.wipo.int/aboutip/en/> (last visited on 26 April, 2025).

³ History and evolution of Intellectual Property, *available at*: <https://abounaja.com/blog/history-of-intellectualproperty> (last visited on 26 April, 2025).

The fashion industry has long relied on trademark protection to maintain brand identity. One of the earliest instances of trademark protection in fashion dates back to 1858, when the Parisian couture house, Worth, registered the first fashion trademark.⁴ Since then, luxury brands and designers have actively safeguarded their brand names and symbols through trademark registration. In the United States, the Copyright Act of 1976 marked a significant milestone by granting copyright protection to fashion designs, further solidifying the legal framework for intellectual property in the industry.

The relationship between fashion and intellectual property law has been evolving since the early 20th century, with continuous legal advancements to meet the needs of the industry. Strong IP laws are essential in protecting the rights of designers and ensuring fair competition in the global fashion landscape.

3. IPR AND FASHION LAW IN INDIA

India's fashion industry has emerged as a vital component of its rapidly expanding economy, driven by a flourishing textile sector and increasing global demand. As the second-largest textile producer in the world after China, India's fashion market has witnessed significant growth over the years. According to a Criteo report, online retail sales rose 14% year-over-year during the two-week Diwali shopping period, with the fashion sector leading the way, recording an impressive 42% growth.⁵

A joint report by The Business of Fashion and McKinsey & Company highlights that fashion industry leaders now view India as one of the most promising destinations for international brands. The country is projected to become the world's third-largest consumer market by 2027,⁶ offering substantial potential for both luxury and non-luxury fashion brands.

However, despite this promising trajectory, the Indian fashion industry faces critical challenges, particularly in protecting original designs. Many designers struggle with rampant copying and imitation of their creations, often without adequate legal resources. Fashion

⁴ Isha Johnson and Sakshi Verma, "Intersection of Inspiration and Infringement in the Fashion Industry", *Lawctopus – Academike*, 18 July 2023, available at: <https://www.lawctopus.com/academike/copyrightinfringement-in-fashion-industry/> (last visited on April 26, 2025).

⁵ 'Why is India becoming the Hot Spot for Global Luxury Fashion Brands?' available at: <https://www.marketbrew.in/daily-insights/luxury-destination> (last visited on April 26, 2025).

⁶ Ibid.

designers, design houses and brands have legal right to protect their original creations under five key Intellectual Property Rights (IPR) legislations in India. While these laws do not offer comprehensive protection for an entire garment, they safeguard specific elements such as design, shape, colour, material, pattern, texture and ornamentation. The relevant legislations are as follows:

- 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).

3.1 Copyright protection in Fashion Law: the Indian Copyright Act, 1957.

Copyright is the exclusive legal right to reproduce, publish, sell or distribute the matter and form of something (such as literary, musical or artistic work).⁷ Copyright grants legal ownership over intellectual property, ensuring that only the creator or those they authorize can reproduce and distribute the work. In the fashion industry, copyright protects a designer's artistic creations, particularly sketches, patterns and surface embellishments, but it does not extend to the functional aspects of garments such as their shape, cut or silhouette.

The Indian Copyright Act, 1957 defines an “artistic work” under Section 2(c), covering paintings, sculptures, drawings, and other artistic expressions⁸. This broad definition extends to textile designs, prints and surface patterns in fashion. However, garments as a whole, including their shape, structure and fit are not protected under this law. The registration is not a mandatory requirement to seek copyright protection.

⁷ Copyright, available at: <https://www.merriam-webster.com/dictionary/copyright> (last visited on April 26, 2025).

⁸ The Copyright Act, 1957 (Act 14 of 1957), s 2(c).

The duration of copyright protection is mentioned in Section 22 of the Copyright Act of 1957. Copyright protection in India lasts for the lifetime of the creator plus 60 years⁹. For anonymous, pseudonymous and joint-authored works, protection lasts for 60 years from the year of publication.

One of the key limitations under the Copyright Act, 1957 is outlined in Section 15(2), which restricts the protection of a design once it has been reproduced more than 50 times. This provision states that if a design qualifies for registration under the Designs Act, 2000, but is not registered, and if it has been mass-produced beyond 50 copies, the original creator loses their copyright protection permanently¹⁰. In *Ritika Private Limited v Biba Apparels Private Limited*,¹¹¹² a boutique fashion design house accused Biba Apparels of copying its original designs and using them across its product line, leading to economic losses for the plaintiff. However, Biba was able to evade liability due to the loophole in Section 15(2). Since the copied designs were produced and sold in more than 50 pieces, they were no longer eligible for copyright protection. This case highlights a major flaw in India's intellectual property framework for fashion. Many designers fail to register their creations under the Designs Act, 2000, assuming that copyright protection is sufficient. However, once their designs are mass-produced, they lose all legal protection, allowing large fashion brands to exploit their work without consequence.

The copyright grants protection to artistic works, particularly graphic elements such as paintings, drawings and other original creative expressions. However, in the context of the fashion industry, copyright applies primarily to textile designs, while the shape, cut and silhouette of garments remain unprotected under this law. In *Star Athletica v Varsity Brands*,¹² an ex-employee of a cheerleading uniform manufacturer began producing similar uniforms after relocating to another country. The key legal issue was whether the styles and shapes of clothing could be protected under copyright law. The U.S. Supreme Court ruled that only surface designs, patterns, and sketches were eligible for copyright protection, while the overall shape, cut, and silhouette of the clothing were not protected¹³. This decision reinforced the limited scope of copyright protection in the fashion industry, ensuring that functional aspects

⁹ *Supra* note 8, s 22.

¹⁰ *Supra* note 8, s 15(2).

¹¹ CS(OS) No. 182/2011, decided on 23 March 2016 (Delhi High Court).

¹² US (2017).

¹³ *Star Athletica v Varsity Brands*, 580 US (2017).

of clothing remain outside its ambit. In another case, *Rajesh Masrani v Tahiliani Designs Pvt. Ltd.*,¹⁴ the Delhi High Court examined the extent of copyright protection for fashion designs under Section 2(c) of the Copyright Act, 1957. The court held that drawings made for designing accessories and garments, including printed patterns and embroidery on fabrics, fall within the definition of ‘artistic work’ and are eligible for copyright protection¹⁵. This ruling certified that while garment structures are not protected, intricate design elements such as embroidery, patterns and prints are covered under copyright law.

Copyright law offers limited but essential protection to fashion designers by safeguarding artistic elements such as textile prints, embroidery, and surface designs. However, it does not extend to functional aspects like the cut, shape, or silhouette of garments, leaving room for replication in the fashion industry. While cases like *Star Athletica*¹⁶ and *Rajesh Masrani*¹⁷ reinforce the scope of copyright in fashion, designers often need to rely on other forms of intellectual property protection, such as trademark and design law, to fully safeguard their creations.

3.2 Design Protection in Fashion: The Role of Designs Act, 2000.

Design is the visual appearance of a product, incorporating amongst other features, the aspect of shape, configuration, colour and pattern applied to an article¹⁸. The Design Act, 2000, provides protection to new and original designs that have not been previously created, whether produced or even sketched. However, this protection applies only to the visual characteristics of a product, such as its shape, pattern, ornamentation or composition of lines and colours, rather than its material, feel or function.

Under Section 2(d),¹⁹ a design includes two-dimensional or three-dimensional features that are applied to an article through any manual, mechanical or chemical process, provided that they appeal to and are judged solely by the eye. However, it does not extend to principles of

¹⁴ AIR 2009 DELHI 44

¹⁵ *ibid*

¹⁶ *Supra* note 13.

¹⁷ *Rajesh Masrani v Tahiliani Designs Pvt. Ltd.*, AIR 2009 DELHI 44

¹⁸ Design Protection in IPR: Legal Framework & Key Insights, *available at*: <https://thelegalschool.in/blog/design-intellectual-property-right> (last visited on April 26, 2025).

¹⁹ The Design Act, 2000 (Act 16 of 2000).

construction or mechanical devices. Only registered designs receive legal protection, allowing the holder to prevent counterfeit or knock-off designs from entering the market.

This protection applies to both aesthetic and ornamental elements whether textile prints(2D) or fashion accessories and garments (3D). Additionally, a threedimensional design can be safeguarded as an industrial model, while printed designs or fabric quality as industrial designs.

The Design Act, 2000, grants protection for 10 years, extendable by another 5 years, and impose strict penalties on design piracy. Infringers may be liable for damages up to INR 25,000, recoverable as a contract debt. However, this act excludes artistic works from its scope.

The *Pranda Jewelry Pvt. Ltd. v Aarya 24K*²⁰ case, decided by the Bombay High Court, highlighted the distinction between artistic works and industrial designs. The court examined copyright infringement involving gold sheets, religious symbols and deity articles. It drew an analogy with paintings, stating that when a painting is reproduced on canvas, its shape and configuration do not change, as it is merely copied. In contrast, when designs are applied to functional products like appliances, they take in a distinctive shape and configuration, qualifying as industrial designs. The court concluded that while artistic works are typically excluded from design protection, those with artistic quality and applied features may still fall within the scope of design law.

3.3 Brand Identity and Fashion: Protection under Trademarks Act, 1999.

A trademark is a recognizable sign, phrase or symbol that denotes a product or service and legally differentiates it from all others of its kind. A trademark exclusively identifies a product as belonging to a particular company and recognizes the company's ownership of the brand.²¹ Section 2(zb),²² refers to any mark that can be graphically represented and has the ability to distinguish one product or service from another. This includes logos, symbols, names, designs, colour combinations and packaging that set a product apart in the marketplace. Essentially, a trademark serves as a brand identifier, ensuring that consumers can recognize and differentiate one company's goods from those of another. A notable example is the Yves Saint Laurent

²⁰ AIR 2015 BOMBAY 157.

²¹ Carla Tardi, "Trademark: Definition, What It Protects, Symbols & Examples" (25 July 2024) *available at*: <https://www.investopedia.com/terms/t/trademark.asp> (last visited on April 26, 2025).

²² The Trademarks Act, 1999, (Act 47 of 1999).

‘YSL’ logo and its trademark, which distinguishes the brand’s handbags and accessories from those of other luxury fashion houses.

The three main objectives behind trademark protection are ensuring consumer protection, safeguarding a company’s reputation and exclusivity and preventing unfair competition and brand dilution. In the fashion industry, trademarks are invaluable, as they help maintain a brand’s prestige, exclusivity and goodwill. Consumers often purchase luxury products primarily due to the brand’s reputation rather than just the product itself. Trademark protection extends to brand names, logos, packaging and trade dress, including colour schemes and product shapes. This protection ensures that counterfeit or knock-off products do not damage brand’s exclusivity.

However, only registered trademark receives legal protection. In *Micolube India Ltd. v Rakesh Kumar Trading*,²³ the Delhi High Court clarified that a single design cannot be simultaneously registered as both design and a trademark. However, once a trademark is registered, the owner has full freedom to use it in any form. This ruling strengthened trademark protection for fashion designers, brands and fashion houses, granting them dual protection under both the Design Act, 2000 and the Trademark Act, 1999.

Most fashion designers in India prefer trademark protection over patents. Fashion patents are difficult to obtain, as they require the design to be entirely new and innovative. Additionally enforcing patents in fashion is challenging and costly. Instead, brands strongly defend their trademarks to protect their identity. For instance, in *Christian Louboutin Sas v. Pawan Kumar & Ors.*,²⁴ the luxury brand Christian Louboutin sued two companies for selling counterfeit shoes with its signature red sole – a well-known trademark. The court ruled in favour of Louboutin, awarding INR 10.7 lakhs in damages and officially recognizing the red sole as a well-known trademark. This case highlights how fashion designers and brands can use trademark law to protect their unique identity and brand value.

Compared to patents and design protection, trademarks are easier, faster and more affordable to obtain. Designers and businesses can apply for a trademark online through the trademark

²³ AIR 2014 (NOC) 375 (DEL.)

²⁴ 2017 SCC OnLine Del 12173.

registry website, making it a convenient and effective way to protect intellectual property in the fashion industry.

3.4 Innovation in Fashion: Patent Protection under the Patents Act, 1972.

A patent is a legal protection granted by the government to an inventor, providing exclusive rights over an invention for a period of 20 years from the filing date. This means that during this time, only the patent holder has the right to manufacture, sell or use the patented invention. Patents primarily protect technological innovations and new processes, rather than artistic creations.

While artistic designs cannot be patented, patents in the fashion industry protect technological innovations and processes used in fashion production. These legal rights grant designer's exclusivity over specific products or methods, fostering innovation in the industry.

Patent protection is often granted to technological innovations in fashion, such as CROCS shoes: patented for their unique foam resin material and design, Wrinklefree fabrics and water-repellent textiles.²⁵ A well-known example is Novozymes, a Danish biotechnology company specializing in enzymes and microorganisms. The company developed a patented enzyme-based technology for treating stone-washed denim. By using cellulase enzymes, the fabric is given a worn-out look without using traditional chemical treatments.²⁶ This innovation was revolutionary and within three years, other denim manufacturers started licensing Novozymes patented technology. Today, Novozymes holds over 4,200 active patents worldwide for fabric finishing and production enhancements.²⁷

Although obtaining fashion-related patents is time-consuming and costly, they provide long-term protection for groundbreaking technologies. If the invention is novel and widely adopted, it may remain relevant for decades, offering significant commercial benefits to the patent holder.

²⁵ Rohan Gandhi, "Role of Intellectual Property in the Fashion Industry" (5 July 2020), *available at*: <https://lexforti.com/legal-news/role-of-intellectual-property-in-the-fashion-industry/> (last visited on April 26, 2025). accessed 29 March 2025.

²⁶ IPR in Fashion Industry, *available at*: <https://www.altacit.com/ip-management/ipr-in-fashion-industry/> (last visited on April 26, 2025).

²⁷ IP and Business: Intellectual Property in the Fashion Industry, *available at*: https://www.wipo.int/wipo_magazine/en/2005/03/article_0009.html (last visited on April 26, 2025).

3.5 Protection under the Geographical Indications of Goods Act, 1999.

Geographical Indications are a type of intellectual property right that identifies a product based on its origin from a specific geographical region. These products possess unique qualities, reputation or characteristics that are inherently linked to their place of origin.²⁸

India has a diverse cultural history deeply rooted in its traditional fashion and textile practices. Each region has its own distinctive attire, handloom textiles and indigenous crafts, contributing to the country's rich textile heritage. To protect these unique traditions, India introduced the Geographical Indications of Goods (Registration and Protection) Act, 1999. This Act safeguards traditional knowledge and indigenous art forms by classifying eligible goods under Schedule IV of the legislation.

Geographical Indications protect the craftsmanship and artistic value of textiles, empowering rural artisans by preventing misuse and piracy, especially when combined with trademarks and copyrights.

Despite India's vast textile diversity, only 23 textiles have received GI status so far. Some notable examples are, Kotpad Handloom fabric (Odisha), Kancheepuram silk (Tamil Nadu), Kutch embroidery (Gujarat), Muga Silk (Assam), Kota Doria (Rajasthan).²⁹ These textiles are highly valued both domestically and internationally, emphasizing the importance of GI protection in ensuring their authenticity and sustainability.

3.6 Conclusion

The intersection of Intellectual Property Rights (IPR) and Fashion Law in India presents multiple challenges, including inadequate legal awareness, weak enforcement mechanisms, and difficulties in protecting both contemporary and traditional designs. While trademarks under the Trademarks Act, 1999 protect brand identity, patents under the Patents Act, 1970 primarily cover technological innovations rather than artistic creativity in fashion. The Designs Act, 2000, though relevant for protecting unique fashion designs, restricts simultaneous trademark registration. Additionally, Geographical Indications (GI) under the GI Act, 1999 serve as a crucial tool for safeguarding India's rich textile heritage, yet remain underutilized,

²⁸ Protecting Local Products with Geographical Indications, *available at*: https://www.wipo.int/ip_outreach/en/ipday/2022/toptips/geo_indications.html (last visited on April 26, 2025).

²⁹ Ibid.

with only a few traditional textiles receiving formal recognition. The prevalence of counterfeiting, fast fashion, and IP piracy further threatens both designer originality and indigenous craftsmanship, making IPR enforcement a critical concern.

4. IPR AND FASHION LAW IN USA AND EUROPEAN UNION.

4.1 The United States

Despite multiple unsuccessful attempts to introduce federal copyright protection for fashion designs, including the Innovative Design Protection and Piracy Prevention Act (2011/2012), no comprehensive legal framework currently exists in the U.S instead, fashion designs are safeguarded through a combination of intellectual property rights such as copyright, trademark, trade dress, and design patents, often overlapping in their protection.³⁰

- a) COPYRIGHT PROTECTION: Under U.S law, fashion designs are not broadly protected by copyright due to the ‘useful article’ doctrine under the Copyright Act of 1976. This doctrine prevents the copyrighting of functional aspects of clothing but allows protection for separable artistic elements, such as fabric, prints, embroidery, and sculptural elements. The seminal case, *Star Athletica, LLC v Varsity Brands, Inc.*,³¹ reinforced this by ruling that design elements of cheerleading uniforms were copyrightable if they could be separated from the garment’s utilitarian aspects. The ruling established the separability test, allowing copyright protection only for design elements that could be distinguished from the overall garment, which posed a significant challenge for U.S designers since only specific aspects, not the entire garment, were protected³².
- b) TRADEMARK AND TRADE DRESS PROTECTIONS: Trademark offers the most robust protection for fashion brands. Under the Lanham Act, 1946, trademarks safeguard brand names, logos and instinctive symbols from

³⁰ Hogan Lovells, “Intellectual Property for Fashion Goods in USA”, available at: <https://www.lexology.com/library/detail.aspx?g=ac71e9e9-2770-4c70-b0be-05efe4573ed6> (last visited on April 26, 2025).

³¹ 580 US (2017).

³² Saransh Chaturvedi, “Fashion Industry and Challenges for IP Protection” available at: <https://www.mondaq.com/india/trademark/1024232/fashion-industry-and-challenges-for-ip-protection> (last visited on April 26, 2025).

infringement. A famous case, *Christian Louboutin S A v Yves Saint Laurent America Holding, Inc.*,³³ affirmed that the red sole of Louboutin's shoes was a protectable trademark, provided it had acquired secondary meaning.³⁴ Trade dress, a subset of trademark law, protects the overall appearance of a product, including packaging and design. It protects patterns, prints, single or multiple colours, specific product features and even the overall design or configuration of a product, assuming that the product feature or design is not functional and the owner can demonstrate that consumers have come to recognize that feature or configuration as identifying the source of the goods. For example, Louboutin's red soles are subject to trademark protection, Hermes configuration for their handbags are subject to trademark protection.

- c) PATENT PROTECTION: Utility and design patents offer protection for new, non-obvious inventions under the Patents Act, 1952. While less common in fashion, they can cover functional elements like Nike's Fly knit Technology or innovative fastening systems like Levi Strauss' riveted jeans.

The rise of social media has led to widespread unauthorized use of copyrighted content, increasing copyright infringement cases. Additionally, cybersquatting and trademark squatting remain persistent issues. A notable trademark case in China, *New Balance Athletics Inc. v U.S.A New Burnen International Co.*³⁵ in 2017 involved US sports brand New Balance, where the Suzhou Intermediate People's Court ordered three Chinese shoemakers to pay over RMB 10 million (approximately USD 1.5 million) for infringing New Balance's iconic slanted "N" trademark. While relatively small by global standards, this was one of the highest damages awarded to a foreign company in a Chinese trademark dispute. Despite the absence of a dedicated Fashion Law Act, the U.S protects designers through a combination of copyright, trademark, trade dress, patents etc. However, the limitations of these frameworks, particularly in copyright law, have led to ongoing legislative discussions about enhanced protections for fashion designs.

³³ 709 F3d 140 (2d Cir 2013).

³⁴ John Zarocostas, "The Role of IP Rights in the Fashion Business: A US Perspective" (3 August 2018) available at: <https://www.wipo.int/web/wipo-magazine/articles/the-role-of-ip-rights-in-the-fashion-business-aus-perspective-40479> (last visited on April 26, 2025).

³⁵ 424 F. Supp. 3d 334.

4.2 European Union

Europe has been home to some of the most iconic fashion houses and designers, including Christian Dior, Giorgio Armani and Coco Chanel. The European fashion industry contributes significantly to the economy, with a turnover of EUR 181 billion and employing over 1.7 million people.³⁶ However, fashion brands face challenges such as counterfeiting, knockoffs and unfair competition. To address these, EU has developed a robust intellectual property protection framework covering copyrights, design rights and trademarks.

The EU offers design protection through Registered Community Design (RCD) and Unregistered Community Design (UCD), with the EU Design Protection Directive (98/71/EC) harmonizing laws across member states. RCDs, requiring novelty and individual character, are registered with the EUIPO and provide renewable protection for up to 25 years.

On the other hand, UCD protection, introduced under EU Regulation 6/2002, offers short-term protection for three years from the date of public disclosure. UCD is particularly relevant for fast-moving industries like fashion, where designs frequently change. However, UCD only protects against deliberate copying, whereas RCDs protect against similar designs regardless of intent.³⁷

A key case illustrating the effectiveness of RCD protection is *Karen Millen v Dunnes Stores*,³⁸ the Court of Justice of the European Union ultimately led to the finding that the overall impression of a design has taken individually be, in contrast to a mixture of hand-picked features from several already existing designs and that the rights holder does not have to prove the individual character of the unregistered EU design in infringement proceedings; the rights holder only needs to specify the features that provoke the individual character of the design.³⁹

- a) COPYRIGHT PROTECTION: Copyright law in the EU primarily protects artistic works, including certain fashion designs. Originality is a key requirement for copyright protection. Historically, copyright law for textiles

³⁶ Protection in the EU: Fashion Design Cumulative, available at: <https://www.anuation.com/blogs/protectionin-the-eu-fashion-design-cumulative> (last visited on April 26, 2025).

³⁷ Ibid.

³⁸ Case C-345/13, ECLI:EU:C:2014:2013 (CJEU, 19 June 2014)

³⁹ *Karen Millen Fashions Ltd v Dunnes Stores*, available at: <https://ie.vlex.com/vid/karen-millen-fashions-ltd793922253> (last visited on April 26, 2025).

dates back to the 17th century in the UK. The Berne Convention, 1886 provides international copyright protection, ensuring that EU member states extend the same protection to foreign designers as they do their own citizens. France offers dual protection, where a design can benefit from both copyright and registered design rights. Theoretically, a product may be covered by both copyright protection and registered design protection at the same time. The protection classes differ in terms of both the extent of protection and the running period, which could be important. Normally, copyright protection lasts for up to 70 years after the relevant author's passing, but registered design protection only lasts for a maximum of 25 years.⁴⁰ In *Infopaq International A/S v Danske Dagblades Forening*,⁴¹ the CEJU pointed out that only the original works of art are matters of copyright protection, emphasizing that this is the only criterion that applies to all EU Member States and all types of works regardless of their form⁴².

b) TRADEMARK AND BRAND PROTECTION: The EU Trademark

Regulation (2017/1001) ensures unified trademark protection across EU Member States. In *Adidas v Shoe Branding Europe*,⁴³ the EUIPO ruled in favour of Adidas, finding that Shoe Branding Europe's two-stripe design infringed Adidas' well-known three-stripe trademark.⁴⁴

- c) Fashion law in the EU provides robust protection through a cumulative approach, especially in France, where designers strategically use copyright, design rights and trademarks to safeguard their creations and market presence.

5. INTELLECTUAL PROPERTY CHALLENGES IN FASHION INDUSTRY

Vivienne Westwood once stated, 'Fashion is very important. It is life-enhancing and,

⁴⁰ *Supra* note 38.

⁴¹ Case C-5/08 [2009] ECR I-6569.

⁴² *Infopaq International A/S v Danske Dagblad*, available at: <https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=celex:62008CJ0005> (last visited on April 26, 2025).

⁴³ T-307/17 [2019] ECLI:EU: T: 2019:427.

⁴⁴ 'Adidas AG v Shoe Branding Europe BVBA', available at: <https://flatfeecorp.com/articles/Adidas-AG-vShoe-Branding-Europe-BVBA-2016> (last visited on April 26, 2025).

like everything that gives pleasure, it is worth doing well'. However, the fast-paced nature of the fashion, also known as 'fast fashion', makes it particularly vulnerable to intellectual property violations. Counterfeiting, knock-offs and digital piracy threaten both originality and financial interests.⁴⁵

Fashion piracy, including counterfeiting and knockoffs, poses a major challenge. Counterfeiting replicates designer products at lower prices, such as fake Sabyasachi and Manish Malhotra lehengas in Chandni Chowk. Knockoffs imitate original designs but are sold under different brand names, often resembling the original, leading to intellectual property concerns. Unlike counterfeits, which use identical branding, knockoffs maintain slight differences in name or design to avoid direct trademark infringement, such as 'Hike' copying Nike's signature style.⁴⁶ As Gary Assim pointed out, 'the damage actioned by the knockoff is twofold. Firstly, it robs the original designer of the profits from the sale of the original product which was a result of creativity and large amounts of research and development investment. Secondly, it does not recognise the designer as the original creator'.⁴⁷

Weak enforcement mechanisms further complicate IP protection. As fashion evolves, so must its legal framework. Strengthening IP laws, improving enforcement and raising consumer awareness are key to ensuring fairness and innovation in the industry.

6. CONCLUSION

This paper set out to explore the intersection of Fashion Law and Intellectual Property by comparing India's legal framework with that of global standards, particularly the United States and the European Union. The title of the paper resonates with the very essence of the study, tracing how legal protections for creativity in fashion diverge across jurisdictions. Beginning with the introduction, the paper illustrated how fashion is no longer a mere aesthetic pursuit, but a powerful medium of identity and expression intricately tied to commerce and culture. Fashion houses like Chanel, Gucci and Dior

⁴⁵ Adrija Ghose, "Fashion Forward, Legally Protected: Analysing IPR Laws in India and the West" 2(2) NLUA Journal of Intellectual Property Rights 111 (2023).

⁴⁶ Yosha Dubey, "The Role of IPR in Fashion Industry" 10(1) International Journal for Research in Applied Science and Engineering Technology (2022).

⁴⁷ Supra note 45 at 112.

have built empires on the uniqueness of their designs, but such originality remains increasingly threatened without effective legal safeguards.

The second chapter traced the historical evolution of intellectual property rights in fashion, showing how the law has tried, often inadequately, to catch up with an industry built on constant reinvention. This background laid the foundation for understanding current vulnerabilities.

Third chapter, focusing on India, brought to light the fragmented, underdeveloped nature of Fashion law in the country. While India has a growing fashion market and a rich tradition of textile artistry, the legal infrastructure remains scattered with the limited recognition for design-specific copyrights, inconsistent enforcement, and weak protection against counterfeits and trade dress violations.

In contrast, Chapter four highlighted how the EU's robust design rights regime and the U. S's multifaceted IP approach through trademarks, patents and trade dress offer far more strategic protection to designers. Though Copyright protection in the U.S remains limited for fashion, powerful case law precedents demonstrate a jurisprudential willingness to adapt. Meanwhile, the EU's focus on registered and unregistered design rights provides both preventive and corrective tools against infringement. Chapter five identified core challenges like counterfeit culture, fast fashion exploitation, digital piracy and ineffective cross-border enforcement.

The central hypothesis of this paper is thus affirmed: India's approach to fashion law and IPR remains significantly narrower and less equipped than global standards. Without holistic reforms, India risks remaining a creative marketplace vulnerable to piracy rather than a protected incubator for fashion innovation.

Imagine a young Indian designer, an entrepreneur with nothing but a dream, pouring her soul into crafting a 'turquoise blue Pearl handbag', each bead sewn with precision, each stitch a symbol of her identity. Her creation dazzles on social media, admired for its uniqueness. But weeks later, she walks past a roadside stall only to see a cheap imitation of her bag, mass-produced and sold for a fraction of the price. There is no trademark. No design registration and no legal recourse, only heartbreak. This is not just a story. This is the everyday reality of Indian creators. When the law fails to

recognise and protect the original, it betrays the very soul of creativity. The hands that design deserve the same dignity as the minds that draft legislation. In the words of Coco Chanel, “In order to be irreplaceable, one must always be different”.⁴⁸ But difference means little if it is not defended. If we truly wish to support innovation and protect the dreams of thousands of artisans, designers and fashion entrepreneurs, India's fashion law must evolve comprehensively, urgently and justly. The hands that design deserve the same dignity as the minds that draft legislation.

⁴⁸ The Best Coco Chanel Quotes about Fashion, Love and Success, *available at*: <https://www.harpersbazaar.com/fashion/designers/g32971271/best-coco-chanel-quotes/> (last visited on April 26, 2025).

BIBLIOGRAPHY

JOURNALS

1. Yosha Dubey, "The Role of IPR in Fashion Industry" 10(1) International Journal for Research in Applied Science and Engineering Technology (2022).
2. Adrija Ghose, "Fashion Forward, Legally Protected: Analysing IPR Laws in India and the West" 2(2) NLUA Journal of Intellectual Property Rights 111 (2023).
3. Isha Johnson and Sakshi Verma, "Intersection of Inspiration and Infringement in the Fashion Industry", *Lawctopus – Academica*, 18 July 2023, available at: <https://www.lawctopus.com/academike/copyright-infringement-in-fashion-industry/> (last visited on April 26, 2025).
4. John Zarocostas, "The Role of IP Rights in the Fashion Business: A US Perspective" (3 August 2018) available at: <https://www.wipo.int/web/wipo-magazine/articles/therole-of-ip-rights-in-the-fashion-business-a-us-perspective-40479> (last visited on April 26, 2025).
5. Hogan Lovells, "Intellectual Property for Fashion Goods in USA", available at: <https://www.lexology.com/library/detail.aspx?g=ac71e9e9-2770-4c70-b0be05efe4573ed6> (last visited on April 26, 2025).
6. Rohan Gandhi, "Role of Intellectual Property in the Fashion Industry" (5 July 2020), available at: <https://lexforti.com/legal-news/role-of-intellectual-property-in-thefashion-industry/> (last visited on April 26, 2025). accessed 29 March 2025.
7. Saransh Chaturvedi, "Fashion Industry and Challenges for IP Protection" available at: <https://www.mondaq.com/india/trademark/1024232/fashion-industry-and-challengesfor-ip-protection> (last visited on April 26, 2025).
8. Carla Tardi, "Trademark: Definition, What It Protects, Symbols & Examples" (25 July 2024) available at: <https://www.investopedia.com/terms/t/trademark.asp> (last visited on April 26, 2025).

WEBSITES

1. Quotes of Coco Chanel, *available at:*
<https://www.goodreads.com/quotes/12859fashion-is-not-something-that-exists-in-dresses-only-fashion> (last visited on 26 April, 2025).
2. What is Intellectual Property, Uganda Registration Service Bureau, *available at:*
<https://www.wipo.int/about-ip/en/> (last visited on 26 April, 2025).
3. ‘History and evolution of Intellectual Property, *available at:*
<https://abounaja.com/blog/history-of-intellectual-property> (last visited on 26 April, 2025).
4. Why is India becoming the Hot Spot for Global Luxury Fashion Brands? *available at:*
<https://www.marketbrew.in/daily-insights/luxury-destination> (last visited on April 26, 2025).
5. ‘Copyright, *available at:* <https://www.merriam-webster.com/dictionary/copyright> (last visited on April 26, 2025).
6. Design Protection in IPR: Legal Framework & Key Insights, *available at:*
<https://thelegalschool.in/blog/design-intellectual-property-right> (last visited on April 26, 2025).
7. IPR in Fashion Industry, *available at:* <https://www.altacit.com/ip-management/ipr-infashion-industry/> (last visited on April 26, 2025).
8. IP and Business: Intellectual Property in the Fashion Industry, *available at:*
https://www.wipo.int/wipo_magazine/en/2005/03/article_0009.html (last visited on April 26, 2025).
9. Protecting Local Products with Geographical Indications, *available at:*
https://www.wipo.int/ip_outreach/en/ipday/2022/toptips/geo_indications.html (last visited on April 26, 2025).

10. Protection in the EU: Fashion Design Cumulative, *available at:* <https://www.anuation.com/blogs/protection-in-the-eu-fashion-design-cumulative> (last visited on April 26, 2025).
11. Karen Millen Fashions Ltd v Dunnes Stores, *available at:* <https://ie.vlex.com/vid/karenmillen-fashions-ltd-793922253> (last visited on April 26, 2025).
12. Infopaq International A/S v Danske Dagblad, *available at:* <https://eurlex.europa.eu/legal-content/EN/TXT/?uri=celex:62008CJ0005> (last visited on April 26, 2025).
13. Adidas AG v. Shoe Branding Europe BVBA *available at:* <https://flatfeecorp.com/articles/Adidas-AG-v-Shoe-Branding-Europe-BVBA-2016> (last visited on April 26, 2025).
14. The Best Coco Chanel Quotes about Fashion, Love and Success, *available at:* <https://www.harpersbazaar.com/fashion/designers/g32971271/best-coco-chanelquotes/> (last visited on April 26, 2025).

CASE LAWS

1. *Ritika Private Limited v Biba Apparels Private Limited*, CS(OS) No. 182/2011, decided on 23 March 2016 (Delhi High Court).
2. *Star Athletica v Varsity Brands*, 580 US (2017).
3. *Rajesh Masrani v Tahiliani Designs Pvt. Ltd.*, AIR 2009 DELHI 44.
4. *Pranda Jewelry Pvt Ltd v Arya 24K*, AIR 2015 BOMBAY 157.
5. *Micolube India Ltd v Rakesh Kumar Trading*, AIR 2014 (NOC) 375 (DEL.).
6. *Christian Louboutin Sas v Pawan Kumar & Ors*, 2017 SCC OnLine Del 12173.
7. *Christian Louboutin S A v Yves Saint Laurent America Holding, Inc.*, 709 F3d 140 (2d Cir 2013).

8. *New Balance Athletics Inc v USA New Burnen International Co.*, 424 F. Supp. 3d 334.
9. *Karen Millen v Dunnes Stores Case*, C-345/13, ECLI:EU:C:2014:2013 (CJEU, 19 June 2014).
10. *Infopaq International A/S v Danske Dagblades Forening*, Case C-5/08 [2009] ECR I6569.
11. *Adidas v Shoe Branding Europe*, T-307/17 [2019] ECLI:EU: T: 2019:427.

LEGISLATIONS

1. The Indian Copyright Act 1957 (Act 14 of 1957).
2. The Designs Act 2000 (Act 16 of 2000).
3. The Trademarks Act 1999 (Act 47 of 1999).
4. The Patents Act 1972 (Act 39 of 1972).
5. The Geographical Indications of Goods (Registration and Protection) Act 1999 (Act 48 of 1999).
6. Copyright Act of 1976 (US).
7. The Lanham Act 1946 (US).
8. The Patents Act 1952 (US).