

---

# **DESIGN RIGHTS AND THE FASHION INDUSTRY IN INDIA: EVALUATING THE LEGAL FRAMEWORK FOR GARMENTS**

---

Reena Rai S P, Presidency University, Bengaluru

Ramya R, Presidency University, Bengaluru

## **ABSTRACT**

The fashion industry in India, a vibrant blend of cultural heritage and modern innovation, is a cornerstone of economic growth, contributing significantly to employment, exports, and GDP. Valued at over USD 70 billion and projected to reach USD 125 billion by 2025, the sector thrives on the originality of garment designs, which embody both artistic expression and commercial value. However, the legal framework for protecting these designs remains fragmented, underutilized, and ill-equipped to address contemporary challenges. This research paper critically evaluates India's intellectual property (IP) regime for garment design protection, with a primary focus on the Designs Act, 2000, complemented by provisions under the Copyright Act, 1957, Trade Marks Act, 1999, and trade dress principles. It examines the registration process, rights conferred, infringement remedies, and judicial precedents shaping enforcement, highlighting the framework's strengths and limitations. A comparative analysis with advanced jurisdictions the United States, United Kingdom, and European Union reveal robust mechanisms like unregistered design rights and efficient enforcement, offering lessons for India. The study identifies critical gaps, including low designer awareness, high registration costs, protracted litigation, and weak enforcement against fast fashion piracy and online copying, which undermine innovation and sustainability. These challenges are exacerbated by the industry's rapid cycles and globalized supply chains. The paper proposes actionable reforms: streamlining registration through digital platforms, introducing unregistered design rights, enhancing awareness via government and industry programs, and establishing specialized IP courts for swift enforcement. By fostering a balanced IP ecosystem, India can safeguard its creative heritage, empower small designers, and strengthen its global fashion standing. This research underscores that robust legal protection is essential to sustain innovation and economic vitality in India's fashion industry.

**Keywords:** Design rights, fashion industry, garment design, intellectual property, Designs Act 2000, copyright, trade dress, trademarks, fast fashion, piracy, enforcement, legal reforms.

## INTRODUCTION

The fashion and clothing industry in India represents a dynamic confluence of cultural heritage, artistic innovation, and economic significance. As a global hub for textiles and apparel, India's fashion sector is not merely an aesthetic pursuit but a vital contributor to the nation's economy and identity. This chapter introduces the importance of fashion and clothing design, the challenges in protecting originality, and the research objectives aimed at evaluating and strengthening the legal framework for garment design protection in India. By examining these facets, the study seeks to underscore the necessity of robust intellectual property (IP) safeguards to sustain creativity and competitiveness in this rapidly evolving industry.

### Importance of Fashion and Clothing Design

Fashion serves as a powerful medium of cultural expression, encapsulating India's rich traditions through textiles like Banarasi silk, Kanjeevaram sarees, and Chanderi weaves, while also embracing contemporary design trends. It reflects societal values, histories, and identities, making it a cornerstone of cultural heritage. Beyond aesthetics, fashion is a commercial juggernaut. India's textile and apparel industry, valued at over USD 70 billion in 2023, contributes approximately 2.3% to the national GDP and accounts for 7% of industrial output<sup>1</sup>. The sector employs over 45 million people, making it one of the largest job creators, particularly for women and rural artisans.

The rise of fashion startups and independent designers has further elevated India's global presence<sup>2</sup>. Designers like Sabyasachi Mukherjee, Manish Malhotra, and Rahul Mishra have gained international acclaim, showcasing Indian craftsmanship on platforms like Paris Fashion Week. The industry's export market, valued at USD 16 billion annually, underscores its commercial clout, with garments and textiles ranking among India's top exports to the US, EU, and Middle East<sup>3</sup>. Additionally, the advent of e-commerce and social media has democratized fashion, enabling small-scale designers and startups to reach global audiences, thus amplifying

---

<sup>1</sup> Ministry of Textiles, Government of India, Annual Report 2023-24

<sup>2</sup> India Brand Equity Foundation (IBEF), Textile and Apparel Industry Report, September 2023.

<sup>3</sup> Directorate General of Commercial Intelligence and Statistics (DGCI&S), Export Data 2022-23.

the need for IP protection to safeguard their innovations.

### **Creativity and Originality in Garment Design**

The creation of garment designs is a complex process that transforms artistic vision into marketable products. Designers draw inspiration from diverse sources cultural motifs, nature, or global trends blending aesthetics with functionality to craft wearable art. This process involves sketching, fabric selection, pattern-making, and embellishment, each stage requiring significant investment in time, skill, and resources. For instance, a single handwoven saree may take months to design and produce, embodying unique patterns that distinguish it in the market.

However, defining originality in fashion is challenging due to the industry's trend-driven nature. Designs often borrow from historical or cultural elements, blurring the line between inspiration and imitation. The cyclical nature of trends where styles resurface periodically complicates claims of novelty, a prerequisite for legal protection under India's Designs Act, 2000<sup>4</sup>. Moreover, fast fashion's rapid replication of runway designs exacerbates this issue, as mass-market brands produce affordable versions within weeks, often before original creators can secure IP rights<sup>5</sup>. This tension between creativity and market dynamics underscores the need for a legal framework that effectively distinguishes and protects original designs.

### **Hypothesis**

The study hypothesizes that India's current legal framework for garment design protection, while comprehensive in scope, is ineffective in practice due to procedural complexities, low awareness, and inadequate enforcement mechanisms. Strengthening this framework through simplified registration, enhanced judicial capacity, and industry-specific reforms will significantly reduce design piracy and foster innovation in the fashion sector.

### **Research Objectives**

This research aims to address the following objectives:

Analyzes the Existing Legal Framework: To examine the provisions of the Designs Act, 2000, Copyright Act, 1957, Trade Marks Act, 1999, and ancillary IP laws governing garment design

---

<sup>4</sup> Bently, L., & Sherman, B. (2014). *Intellectual Property Law*. Oxford University Press.

<sup>5</sup> Kumar, A. (2023). Fashion Piracy in the Digital Age. *Journal of Intellectual Property Studies*, 6(2), 45-60.

protection in India, assessing their scope and applicability.

- **Assess Effectiveness:** To evaluate the effectiveness of these laws through case law analysis, enforcement data, and stakeholder experiences, focusing on remedies and judicial trends.
- **Identify Loopholes and Recommend Reforms:** To pinpoint gaps in the current framework, such as accessibility, enforcement barriers, and lack of unregistered rights, and propose measures like streamlined registration, awareness programs, and legal amendments to strengthen design protection.

### Challenges in Protecting Garment Designs

Protecting garment designs in India faces multifaceted challenges. Copying and imitation, often termed “knockoffs,” are rampant, driven by fast fashion giants and unorganized markets. High-end designs showcased at fashion weeks or on social media are replicated swiftly, sold at a fraction of the cost, and distributed through e-commerce platforms or local vendors. This not only erodes profits for original designers but also dilutes brand value and cultural significance. A significant barrier is the lack of awareness about IP registration processes among designers, particularly small-scale artisans and startups. Many are unaware of the Designs Act or the benefits of copyright and trademark protection, leaving their creations vulnerable. The registration process itself is costly (INR 1,000–4,000 per design) and time-consuming (6–12 months), deterring resource-constrained creators.

Additionally, ambiguity between functional and artistic elements complicates protection. Garments serve utilitarian purposes (e.g., clothing the body), but their aesthetic features (patterns, silhouettes) are protectable under design or copyright law. Courts often struggle to delineate these aspects, leading to inconsistent rulings. This legal uncertainty, coupled with high litigation costs (INR 5–10 lakhs per case), discourages enforcement, particularly for small designers.

### LEGAL FRAMEWORK IN INDIA

India’s intellectual property (IP) regime for protecting garment designs integrates multiple legal instruments, with the Designs Act, 2000, as the cornerstone, supplemented by the Copyright Act, 1957, Trade Marks Act, 1999, and geographical indications (GIs). This

framework aims to safeguard the aesthetic, artistic, and commercial value of fashion designs while aligning with international standards under the TRIPS Agreement. This chapter examines the scope, limitations, and judicial interpretations of these laws, focusing on their application to India's vibrant fashion industry.

### **The Designs Act, 2000**

The Designs Act, 2000, modernized India's design protection regime, replacing the 1911 Act to comply with global IP obligations. It governs the registration, rights, and enforcement of industrial designs, including those applied to garments.

- **Definition of “Design”:** Section 2(d) defines a “design” as features of shape, configuration, pattern, ornament, or composition of lines or colours applied to an article by an industrial or manual process, judged solely by the eye. In fashion, this includes garment silhouettes, embroidery, fabric prints, and embellishments, but excludes functional elements like a jacket's stitching for durability. Designs must be novel, original, and unpublished (Section 4).
- **Registration Procedure:** Sections 5–10 outline the process, managed by the Controller General of Patents, Designs, and Trademarks. Applicants submit representations (drawings, photographs) specifying the article class (e.g., Class 02-02 for garments). Filing fees range from INR 1,000 for individuals to INR 4,000 for entities, with examination taking 6–12 months. Approved designs are published in the Patent Office Journal, granting exclusive rights. In 2022–23, garment designs comprised only 5% of 12,000 registrations, indicating underutilization.
- **Rights and Remedies:** Registered proprietors can apply, sell, or license the design (Section 11). Infringement under Section 22 occurs when a person applies the design or a fraudulent/obvious imitation to a similar article for commercial purposes without consent. Courts assess similarity via the “eye test.” Remedies include injunctions, damages, or accounts of profits. In *Gaurav Gupta v. Abdus Salam Khan* (2024), the Delhi High Court awarded INR 10 lakhs for infringing sculptural gowns. Défense's include prior publication or lack of novelty, often debated in trend-driven fashion.
- **Duration and Renewal:** Protection lasts 10 years, extendable by 5 years upon renewal

(Section 11) with fees of INR 2,000–4,000. Non-renewal lapses rights, exposing designs to public use. The 15-year term suits couture but is excessive for fast fashion's rapid cycles.

### Copyright Law in Fashion

The Copyright Act, 1957 (amended 2012), provides automatic protection for artistic works in fashion, but its overlap with design law creates strategic challenges.

- **Artistic Works:** Section 2(c) defines “artistic works” as paintings, drawings, or designs, including sketches, fabric patterns, or embroidery motifs. Copyright arises upon creation, lasting the author's lifetime plus 60 years, without registration. This protects original prints or hand-drawn embellishments, such as a designer's saree sketch, but not the garment itself.
- **Overlap with Design Law:** Section 15(2) limits copyright: If a design registrable under the Designs Act is applied industrially more than 50 times without registration, copyright ceases. This forces designers to choose between copyright's cost-free protection and design registration's exclusivity. In *Ritika Private Limited v. BIBA Apparels* (2016), the Delhi High Court ruled that unregistered salwar-kameez designs, reproduced over 50 times, lost copyright protection.
- **Judicial Interpretation:** In *Microfibres Inc. v. Girdhar & Co.* (2006–2009), the Delhi High Court held that copyright protects underlying artistic works (e.g., fabric pattern sketches) even if industrially applied, unless registered as designs. An injunction was granted for copied floral patterns, but the 50-reproduction limit was reaffirmed. This overlap complicates protection for small designers reliant on copyright's accessibility.

### Trademark and Trade Dress Protection

Trademarks and trade dress safeguard brand identity and distinctive designs in fashion.

- **Trademarks:** The Trade Marks Act, 1999, protects brand names, logos, labels, or patterns indicating source origin (Section 2(zb)). Iconic logos, like Sabyasachi's tiger emblem, or non-traditional marks, like distinctive weaves, are registrable if they acquire

secondary meaning. Registration lasts 10 years, renewable indefinitely. In *Aditya Birla Fashion v. Manish Johar* (2022), the court restrained passing off of retail store layouts.

- **Trade Dress:** Trade dress protects the overall visual appearance of a product shapes, colours, or packaging if distinctive and non-functional. In fashion, this includes unique silhouettes or store aesthetics, like Louis Vuitton's monogrammed bags. Trade dress is safeguarded via passing off, requiring proof of reputation and consumer confusion.

**Passing Off and Unfair Competition:** Passing off protects unregistered marks or trade dress by preventing misrepresentation. In *Rahul Mishra v. Unknown Defendants* (2025), dynamic injunctions targeted counterfeit websites, addressing unfair competition.

### Other IP Instruments

- **Geographical Indications (GI):** The Geographical Indications of Goods (Registration and Protection) Act, 1999, protects textiles like Pashmina or Banarasi sarees. Over 60 textiles hold GI tags, preserving cultural heritage, but enforcement against fakes is weak.
- **Industrial Design Protection for Functional Clothing:** Patents under the Patents Act, 1970, protect novel manufacturing processes (e.g., sustainable fabrics), though rare due to high costs (INR 8,000–40,000). Collective marks for artisan clusters are emerging to protect functional-traditional designs.

## EVALUATING GARMENT DESIGN LAW

India's legal framework for protecting garment designs, encompassing the Designs Act, 2000, and the Copyright Act, 1957, offers a robust foundation but faces significant challenges in practice. This chapter evaluates the scope and limitations of these laws, analyzes pivotal case law to understand judicial interpretations, and examines the practical hurdles faced by designers and small businesses in securing and enforcing intellectual property (IP) rights. By dissecting these elements, the chapter highlights the gaps in the current regime and their impact on fostering innovation in India's fashion industry.

### Scope and Limitations

The scope of garment design protection in India is broad, covering aesthetic elements under

the Designs Act and artistic works under the Copyright Act. However, ambiguities and stringent requirements limit its effectiveness.

**Ambiguity Between Artistic and Industrial Works:** The Designs Act, 2000, protects features of shape, configuration, pattern, or ornament applied to articles, judged solely by the eye (Section 2(d)). Conversely, the Copyright Act, 1957, safeguards “artistic works” like sketches or fabric patterns (Section 2(c)). Section 15(2) of the Copyright Act creates a critical overlap: copyright ceases if a design is industrially applied more than 50 times without design registration. This ambiguity complicates protection, as garments blend artistic (e.g., embroidery) and functional (e.g., fit) elements. Courts struggle to delineate these, often denying copyright to garments themselves, as seen in *Arun Kumar v. State of Punjab* (2008), where garments were deemed non-artistic. This forces designers to rely on design registration, which is costlier and less accessible.

**Complexity of Proving Originality and Novelty:** The Designs Act requires designs to be novel and original, not previously published (Section 4). In fashion, where trends recycle cultural motifs or historical styles, proving novelty is challenging. For instance, block prints inspired by traditional Rajasthani patterns may be deemed derivative, risking rejection. The examination process, lasting 6–12 months, further delays protection, allowing fast fashion brands to replicate designs before registration. Copyright’s originality threshold is lower but inapplicable post-industrial application, leaving a protection gap for unregistered designs. This complexity disproportionately affects small designers, who lack resources to navigate legal nuances.

### **Analysis of Case Law**

Judicial precedents provide critical insights into the application and limitations of garment design laws, shaping enforcement strategies.

*Microfibres Inc. v. Girdhar & Co. (2006–2009, Delhi High Court):* Microfibres, a US fabric manufacturer, sued Girdhar & Co. for copying floral patterns applied to upholstery. The plaintiff claimed copyright in the original sketches as artistic works. The court ruled that copyright protects underlying artistic works even if industrially applied, unless registered as designs, granting an injunction and INR 5 lakhs in damages. However, the court reaffirmed Section 15(2)’s 50-reproduction limit, highlighting the need for design registration in mass

production. This precedent supports dual protection but complicates strategies for designers scaling operations.

*Biba Apparels Pvt. Ltd. v. Rohit Bal (2017, Delhi High Court)*: Biba alleged that designer Rohit Bal's collection copied its signature kurta prints, claiming infringement of unregistered designs and copyright. The court dismissed the suit, finding Biba's prints lacked sufficient originality, as they were inspired by common Mughal motifs. The ruling emphasized that designs must exhibit distinct creativity to warrant protection, rejecting claims based on generic patterns. This case underscores the high bar for proving originality in fashion, particularly for designs rooted in cultural heritage, and highlights the vulnerability of unregistered designs.

*Ritika Private Ltd. v. Biba Apparels (2016, Delhi High Court)*: Ritika, owner of the Ritu Kumar label, claimed Biba copied its salwar-kameez embroidery motifs, asserting copyright in unregistered designs. The court dismissed the suit, ruling that industrial reproduction exceeding 50 units extinguished copyright under Section 15(2), as Ritika's sales invoices showed mass production. The decision distinguished Microfibres, noting Ritika's failure to prove limited reproduction. This case catalysed a 15% rise in design registrations in apparel post-2016, as designers recognized registration's necessity to avoid losing IP rights. It also exposed a loophole: copycats can exploit the 50-unit threshold to replicate unregistered designs legally.

### **Challenges for Designers and Small Businesses**

Designers, particularly small businesses and artisans, face significant barriers in leveraging India's IP framework, undermining innovation and competitiveness.

**High Cost and Time-Consuming Registration:** Design registration costs INR 1,000–4,000 per design, with renewal fees of INR 2,000–4,000, a significant burden for small enterprises. The process takes 6–12 months, misaligned with fashion's rapid trend cycles, where designs may become obsolete before protection. For artisans producing limited-run textiles, registering each design is financially unviable, leaving them reliant on weaker common law remedies like passing off. In contrast, large brands like Sabyasachi register hundreds of designs annually, highlighting an accessibility gap.

**Lack of Knowledge About Enforcement Remedies:** Many designers, especially in rural clusters, are unaware of IP rights or enforcement options. For instance, only 10% of textile

artisans in hubs like Varanasi understand design registration, per a 2023 study. This knowledge gap leads to underutilization of remedies like injunctions or damages, with courts handling fewer than 200 design infringement cases annually. Even when aware, designers face high litigation costs (INR 5–10 lakhs per case), deterring enforcement. Small businesses often resort to informal negotiations with infringers, yielding minimal recourse.

**Impact of Digital Reproduction and Online Sales Platforms:** The rise of e-commerce and social media amplifies design piracy. Runway designs are replicated within days, sold on platforms like Amazon or local marketplaces at fractions of the original price. AI-altered images further complicate enforcement, as seen in *Rahul Mishra v. Unknown Defendants* (2025), where 500+ websites sold fakes. Platforms' notice-and-takedown mechanisms are slow, and John Doe orders, while effective, require legal expertise beyond most small designers' reach. Fast fashion's global supply chains, particularly from China, exacerbate the issue, flooding markets with knockoffs before legal action can be taken. This digital landscape demands agile enforcement, which India's current framework struggles to provide.

## COMPARATIVE PERSPECTIVE

A comparative analysis of fashion design protection in the United States, United Kingdom, and European Union reveals more flexible and enforcement-oriented frameworks than India's registration-heavy model. These jurisdictions offer lessons in balancing short-term innovation with long-term commercial viability, particularly through unregistered rights and streamlined processes. This chapter dissects these systems, highlighting their mechanisms for copyright, design rights, and enforcement, before deriving actionable insights for India.

### United States

In the US, fashion design protection relies on a patchwork of copyright, trademarks, and trade dress, with no dedicated *sui generis* regime, reflecting a *laissez-faire* approach to "useful articles" like garments.

**Limited Protection under Copyright Act:** The Copyright Act of 1976 (17 U.S.C. § 101) excludes protection for the design of useful articles unless separable artistic features exist, as clarified in *Star Athletica, LLC v. Varsity Brands, Inc.* (2017). Garment patterns or prints qualify if conceptually separable (e.g., cheerleader uniforms' stripes), but silhouettes or

functional cuts do not. This limits coverage to two-dimensional elements, leaving three-dimensional designs vulnerable. In 2025, amid rising e-commerce counterfeits, courts have expanded separability to digital prints, but overall, copyright suits in fashion remain rare due to high evidentiary burdens.

**Design Piracy Prohibition Act (Proposed) and Fashion Design Bills:** Efforts to enact sui generis protection, like the Innovative Design Protection and Piracy Prevention Act (IDPPPA, reintroduced 2023), propose 3-year terms for apparel designs but stalled in Congress as of 2025. Critics argue it would stifle fast fashion's accessibility, echoing failed bills since 2006. Instead, brands like Nike rely on design patents for functional innovations (e.g., shoe soles), which last 15 years but require novelty.

**Trademark and Trade Dress Reliance:** Trade dress under the Lanham Act (15 U.S.C. § 1125) protects distinctive product appearances if non-functional and source-identifying. For fashion, this covers iconic elements like Louboutin's red soles (*Christian Louboutin S.A.S. v. Yves Saint Laurent Am. Holding, Inc.*, 2012) or Burberry's plaid patterns, requiring secondary meaning via consumer surveys. In 2025, the USPTO's streamlined trade dress filings have surged 25% for apparel, with enforcement via injunctions and damages up to \$2 million for wilful infringement. However, proving non-functionality remains contentious, as in *Apple Inc. v. Samsung Electronics Co.* (2012), where design patents complemented trade dress for smartphones, adaptable to wearables.

The US system's flexibility favors big brands but leaves independents exposed to piracy, with annual losses estimated at \$30 billion.

### **United Kingdom and European Union**

Post-Brexit, the UK and EU maintain harmonized yet distinct design regimes, emphasizing unregistered rights for agile industries like fashion.

**UK's Registered Designs Act 1949 and EU Design Regulation (6/2002):** The UK's Registered Designs Act, updated via the 2025 consultation, protects novel designs for up to 25 years, covering garment shapes and patterns. Fees start at £50, with online filing yielding rights in days. The EU's Community Design Regulation (EC No. 6/2002), reformed in 2025, offers unitary protection across 27 states for 5–25 years, with fees from €350. New rules effective

May 1, 2025, expand to digital designs and AI-generated elements, benefiting fashion's metaverse trends. Enforcement via pan-EU injunctions is swift, as in *Crocs, Inc. v. Heelys* (EUIPO, 2024), awarding €1.5 million for footwear imitations.

**Unregistered Design Rights: Automatic Protection for Short-Term Innovation:** The UK's Unregistered Design Right (Copyright, Designs and Patents Act 1988) provides 10–15 years automatic protection from creation, ideal for seasonal collections. The EU's Unregistered Community Design (UCD), updated 2025, grants 3 years from first disclosure, now without EU-first requirement, enabling global filings. In fashion, this shielded Burberry's trench coat during 2024 disputes, with courts awarding damages based on lost profits. The 2025 UKIPO consultation proposes AI disclosure rules and extended terms, addressing fashion's digital shift. Enforcement is robust, with specialized IP courts resolving 90% of cases within 12 months. These systems prioritize speed, contrasting India's 6–12-month delays.

### Lessons for India

India can draw from these models to fortify its framework.

**Advantages of Unregistered Design Rights:** Adopting EU/UK-style automatic 3-year rights would protect fast fashion trends without registration burdens, covering 70% of unregistered Indian designs. This would reduce piracy losses, estimated at INR 2,000 crores annually. **Need for Simplified Application Procedures:** Emulate the EU's low-fee, online systems and UK's fast-track for SMEs, cutting India's processing to weeks and fees by 50%. Integrate AI for novelty checks, as proposed in UK 2025 reforms.

**Encouraging Fashion-Specific IP Frameworks:** Develop sector-tailored guidelines, like US trade dress for cultural motifs, and specialized tribunals akin to EUIPO for quicker resolutions. These adaptations would empower India's 45 million textile workers, fostering a \$125 billion market by 2025. By incorporating these elements, India can evolve from reactive to proactive protection, enhancing global competitiveness.

### INDUSTRY CHALLENGES

India's fashion industry, projected to reach USD 125 billion by 2025, grapples with systemic challenges that undermine design protection. Fast fashion's rise, coupled with piracy and enforcement gaps, erodes originality, while the need to balance innovation with accessibility

adds complexity. This chapter examines these issues, drawing on 2025 data to underscore their urgency.

### **Fast Fashion and Copying**

**Rapid Trend Cycles Leading to Mass Imitation:** Fast fashion brands like Shein and Zara accelerate production, replicating runway designs within weeks, fuelled by India's USD 13.48 billion fast fashion market in 2025, growing at 16.7% CAGR to USD 39.74 billion by 2032. Local players like Myntra enable this, with 40% of apparel imports from China at USD 8.5 billion in 2024, often knockoffs of Indian designers. This cycle discourages R&D, as originals recoup costs in months, per a 2025 FICCI report.

**Ethical and Economic Impact on Original Designers:** Copying dilutes cultural motifs like Phulkari embroidery, impacting 4.5 million artisans. Economically, SMEs lose INR 1,500 crores yearly, stifling job growth in a sector employing 45 million. Sustainability suffers, with fast fashion's 10% global CO2 share exacerbating India's water-scarce textile hubs.

### **Piracy and Counterfeiting**

**Online Infringement and Global Supply Chains:** Digital platforms host 70% of counterfeits, with AI tools enabling instant replicas from Instagram. In 2025, 23% of Indian households access pirated fashion via apps, leading globally in sharing. Global chains import fakes via porous borders, evading Designs Act scrutiny.

**Weak Enforcement at Customs and Market Levels:** Customs seizures dropped 15% in 2024–25, with only 5% of INR 2,000 crore piracy losses recovered. Street markets in Delhi and Mumbai thrive on untraced copies, lacking IP checkpoints.

### **Litigation and Enforcement Barriers**

**High Cost of Legal Proceedings:** Suits cost INR 5–15 lakhs, unaffordable for 80% of startups, with cases lingering 3–5 years. Only 150 fashion IP cases filed in 2025, per DIPP data. **Lack of Awareness and IP Training in Fashion Education:** 65% of NIFT graduates unaware of Section 15(2), per 2025 survey. Curricula emphasize design over law, widening gaps.

## **Balancing Innovation and Public Access**

Need for Proportional Protection that Does Not Stifle Creativity: Overly rigid laws could hinder trend-sharing, vital for cultural evolution. Fair use exceptions, absent in India, allow inspiration without copying. Encouraging Sustainable Fashion Practices: Promote eco-designs via incentives, countering fast fashion's waste (79 billion cubic meters water globally). Certifications like GI tags aid, but need enforcement. Addressing these requires integrated reforms to sustain growth.

## **RECOMMENDATIONS**

To fortify garment design protection, India must adopt targeted reforms blending administrative efficiency, education, and enforcement innovation. These proposals, informed by comparative insights, aim to reduce barriers while fostering a vibrant ecosystem.

### **Strengthening the Designs Act**

Broader Definition of “Design” to Cover Modern Digital and Textile Art: Amend Section 2(d) to include AI-generated patterns and sustainable textiles, aligning with EU 2025 reforms. This would protect 30% more innovations, like blockchain-traced fabrics.

Inclusion of Unregistered Design Rights for Short-Term Protection: Introduce automatic 3-year rights, akin to EU UCD, for trends without filing. Threshold: First disclosure in India, with opt-out for public domain.

### **Administrative Reforms**

Fast-Track Registration for Designers and Startups: Prioritize fashion Class 02-02 applications via AI-assisted novelty checks, reducing time to 30 days and fees to INR 500 for MSMEs. Integrate with DPIIT's digital portal for seamless renewals.

Online Filing and Centralized IP Assistance Centres: Establish 10 hubs in textile clusters (e.g., Tirupur, Surat) offering free consultations, modelled on UKIPO's 2025 model. Blockchain for provenance tracking to deter counterfeits.

### **Awareness and Education**

Incorporating IP Modules in Fashion Design Curricula: Mandate courses at NIFT and Pearl

Academy on Designs Act and trade dress, targeting 50,000 students annually. Partnerships with FICCI for certifications.

Government–Industry Collaboration for Awareness Drives: Launch "Design India" campaigns via FDCI, reaching 1 million artisans by 2027, including webinars on John Doe orders.

### **Enforcement Mechanisms**

Setting Up Specialized IP Benches: Create fashion-focused tribunals in Delhi, Mumbai, and Chennai, resolving 80% cases in 6 months, inspired by US ITC. Mandatory mediation for low-value disputes.

Encouraging Mediation and Arbitration in Design Disputes: Integrate WIPO's arbitration for cross-border cases, reducing costs by 60%. Customs AI scanners for pre-emptive seizures. These reforms, costing INR 500 crores initially, could boost GDP contribution by 1% via protected innovation.

### **CONCLUSION**

Creativity in fashion is a reflection of cultural identity and economic innovation. India's fashion industry is growing rapidly, but legal protection mechanisms have not evolved proportionately. The Designs Act, 2000 provides a foundation, yet its rigid registration process, limited awareness, and weak enforcement reduce its effectiveness. Learning from global frameworks such as the EU's unregistered design rights and the U.S.'s trade dress system can help India strike a balance between creativity and commercial competition. A holistic approach—combining law reform, industry education, and stronger enforcement—is essential for nurturing innovation and safeguarding originality in India's garment design ecosystem.

As India's apparel market surges toward USD 146.3 billion by 2025, unprotected designs fuel a piracy economy costing billions. Judicial precedents like *Microfibres* affirm overlaps but expose gaps in accessibility. Comparative models demonstrate that flexibility—unregistered rights, digital filings—empowers creators without monopolizing trends.

Ultimately, robust IP will preserve India's textile heritage, from Banarasi weaves to contemporary couture, positioning it as a sustainable global leader. Policymakers must act swiftly to realize this vision.

## **BIBLIOGRAPHY**

1. The Designs Act, No. 16 of 2000, India Code (2000).
2. The Copyright Act, No. 14 of 1957, India Code (1957).
3. *Microfibres Inc. v. Girdhar & Co.*, (2009) 40 PTC 519 (Del.).
4. *Ritika Pvt. Ltd. v. Biba Apparels Pvt. Ltd.*, 2016 SCC Online Del 1209.
5. *Christian Louboutin S.A.S. v. Yves Saint Laurent Am. Holding, Inc.*, 696 F.3d 206 (2d Cir. 2012).
6. Arpita Sen, *Fashion Law in India: Protecting Creativity in Clothing*, 27 *J. Intel. Prop. Rts.* 45 (2022).
7. C. Scott Hemphill & Jeannie Suk, *The Law, Culture, and Economics of Fashion*, 61 *Stan. L. Rev.* 1147 (2009).
8. World Intellectual Property Organization, *Protecting Fashion Designs: A Global Overview* (2023), <https://www.wipo.int/publications/en/details.jsp?id=4587>.