
FASHION LAWS IN FOCUS: THE IP DIVIDE BETWEEN LUXURY AND FAST FASHION BRANDS

Ayushman Mishra, Bennett University, Greater Noida

ABSTRACT

The fashion industry has been widely categorised into two major forces: one being the fast fashion which deals with affordable and easily accessible fashion pieces and other being the luxury industry which focuses on the high quality pieces and goods associated with class. While the focus of luxury fashion is on delivering the customer trendy pieces at cheap prices, luxury brands focus more on creating a lifestyle and providing the craftsmen just compensation. There are multiple scenarios where such fast fashion brands copy or imitate pieces of the luxury brand, leading to multiple legal battles running for years. This article explores such laws dealing with the protection of such fashion designs, thus preventing luxury brands from facing any losses. The article delves into the various tactics used by different countries with help of real life case laws between various luxury and fast fashion brands. It tries to discuss about AI created, eco friendly designs in some parts too and conclude with some suggestions for improvement of laws to protect creativity of these brands.

Keywords: Luxury brand, Fast fashion, IP laws, designs, compensation

Introduction

Fashion industry is on the peak in today's contemporary world. The frequent introduction of various brands have laid out multiple options for the customers to choose from. The selection of the brand for a person depends on various factors including individual preferences, choices and affordability¹. These factors divide the diverse fashion industry into small segments into affordable, expensive or luxury. In this article we will discuss about two such markets- Fast Fashion brand market and the Luxury market.

Zara, Shein, and H&M are well-known fast fashion brands that replicate the latest fashion trends for the market and manufacture affordable clothing in bulk. They offer low prices for trendy garments, allowing consumers to purchase the latest fashion turns at accessible prices. On the other hand, Chanel, Gucci, and Louis Vuitton are examples of luxury brands, which focus on heritage, high-value exclusivity and craftsmanship. Such brands spend a great deal of money on premium material and skilled artisans who design truly unique timeless pieces that embody immense status and pride². Unlike fast fashion, luxury brands do not mass produce their items which helps maintain their exclusivity, prestige, and brand value.

The fastest fashion industry's mass reproduction of luxury designs to cope with market demands leads to disputes concerning intellectual property copyright laws. They place heavy reliance on brand prominence to uphold their identity, but the fast fashion industry copying the designs and selling them for a fraction of the price heavily impacts the original luxury brands' uniqueness and hampers their value. As a result, this forces many such elite brands to go into countless legal disputes in an attempt to protect their designs from unrestricted filing or action. The rapid changes in the collection season, constant updating of styles, as well as quick to market production makes the enforcement of intellectual property laws challenging.

The purpose of intellectual property laws is to protect artistic creations, such as brand names, logos, and clothing designs. However, with emerging trends, these laws are very difficult to apply successfully in the fast-paced fashion industry. Fashion designs frequently become outdated within months, in contrast to industries like music or film where copyrights and

¹ The Grey Area of Design Infringement in the Fashion Industry, **Omnia Retail Blog** (Feb. 2,), <https://www.omniaretail.com/blog/the-grey-area-of-design-infringement-in-the-fashion-industry>.

² Simon Bennett, Fast Fashion and IP Regulation: Will Fast Fashion Kill the Golden Goose?, **Lexology** (Aug. 31, 2022), <https://www.lexology.com/library/detail.aspx?g=2b1efd99-6f50-486f-aec2-fa9569bc9102>.

patents last for years. Luxury designs are frequently slightly replaced by the fast fashion companies, making it more difficult to prove legal complications. Finding a balance between exclusivity, accessibility, and innovation is the difficult part. Fast fashion makes the fashion more easily accessible by lowering the cost of trendy styles, but luxury brands contend that designers' originality and just compensation must be preserved. This continuous discussion emphasizes the necessity of legislative solutions that uphold the fashion industry's need for both protection and creativity.

No matter how they both operate, these two industries are important for the economy. Because of fast fashion, there is an increase in textile waste and problems for the environment. Because fashion changes rapidly, people tend to buy more clothes, but end up wasting them after a short period. Because of this cycle of making and disposing, people are worried about sustainability. Unlike regular brands, luxury brands choose to produce goods that will last and do not easily wear out. Because of their high quality and material choices, the things they make maintain their worth for years. But there are also disputes surrounding vaccination. Questions about how luxury brands handle their workers and the materials used have resulted in some criticism of them. Although textile manufacture and fashion belong to the key parts of the economy, they also need to be addressed to help the fashion industry grow sustainably.

How Intellectual Property Protects Fashion

Fashion industries use intellectual property (IP) laws to guard their creative works and images.

The primary forms of intellectual property (IP) protection are copyright, trademark and design. A book, painting or musical work is protected by copyright, but since clothes are considered practical, copyright does not apply to them under usual circumstances. If your design is made by using unique print fabrics or attractive embroidery³, copyright can cover these elements. Unlike patent rights, trademarks are set up to provide protection for recognizable names, logos and symbols of a business. Because of this, people can identify a brand and have confidence in its products. The law covers designs for clothes, patterns or unique shapes, but their enforcement differs from one country to another. While some regions protect design rights well,

³ Kirstyn Hawkins, Design Theft and Its Effect on Creativity in the Fashion Industry, **Medium** (July 16, 2020), <https://medium.com/@hawkins.kirstyn/design-theft-and-its-effect-on-creativity-in-the-fashion-industry58e74dd5dad4>.

others do not support fashion designers much with the law.

Yet, IP laws in fashion still have many limitations, even with these protections. Because the fashion industry evolves rapidly, it is hard to enforce the law before styles evolve. When a lawsuit is completed, there may be no demand for the designs anymore, because they have become out of style. A lot of clothing styles are not original enough to fit the requirements for copyright protection as written by the law. Fashion often relies on past looks and minor changes to current designs may not be enough to get legal protection. Because of this, it becomes harder for designers to stop others from copying their designs⁴.

Many well-known court cases about intellectual property have affected the fashion industry. The Chanel, Inc. v. is a famous example. The RealReal, Inc. (2020). The clothing brand Chanel accused The RealReal⁵ of selling fake Chanel items and using their brand name without allowing it. The case showed that counterfeit products are still a problem in fashion and that it is hard to govern online platforms. Shein vs. Temu (2024)⁶⁷ is an important case as well. According to Shein, its reputable names were copied by Temu, who got the information using illegal methods. It highlighted topics of copying designs and unfair rivalry in the fast fashion industry.

Although the purpose of IP laws is to help fashion brands and designers, they are not always successful because things move so fast and proving the originality of designs can be tough. Since fashion keeps changing, it is possible that laws have to change to support fairness and originality⁷.

Following Design: The Debate Between Laws and Moral Standards

There is a very thin difference between being inspired and simply copying styles in the fashion industry. To use drawing inspiration means selecting good ideas from other pieces and incorporating them into a unique creation. To come up with new styles, designers usually study

⁴ Jessica J. C., Fast Fashion: A Threat to Creativity and Consumer Trust in the Fashion Industry, **UNH Franklin Pierce School of Law** (Sept. 2024), <https://law.unh.edu/sites/default/files/media/2024-09/1-jessicaessay.pdf>.

⁵ Big Fashion Lawsuits: Hermès, Chanel, Gucci & More, **WWD** (Sept. 21, 2023), <https://wwd.com/lists/bigfashion-lawsuits-hermes-chanel-gucci-1236633604/olaplex-vs-loreal-2016>.

⁶ Chrome Hearts vs. Shein: Trademark Infringement in the Fast Fashion Industry, **Tramatm Blog**, <https://www.tramatm.com/blog/category/fashion/chrome-hearts-vs-shein-trademark-infringement-in-the-fast-fashion-industry>.

⁷ Landmark Cases in the Fashion Industry, **Fashion Law Journal**, <https://fashionlawjournal.com/10landmark-cases-in-the-fashion-industry>.

previous fashions, different cultures and art. However, to imitate means to make an almost exact copy of someone's artwork without adding much originality. Such situations might result in legal problems, since copying without permission could be considered a breach of intellectual property (IP) laws. Inspiration fuels growth in fashion, however, designers sometimes deal with problems from copied ideas that lack their originality.⁸

Most fast fashion brands make the most of loopholes in the law to manufacture trendy items quickly. Since not all fashion designs have strong legal protection, companies may make minor changes to copy someone else's look, avoiding legal issues. A fast fashion brand could change some colour, size or pattern to claim a similar look as their own. Thanks to this, they are able to offer similar items at prices well below the luxury label. Though this supports growth and keeps up with what people want to buy, it leads to doubts about fairness and novelty in fashion.

People who shop also have a big influence here. Many people like buying trendy and inexpensive clothing from these brands to look better without spending a lot. The people who buy these items might not always understand that some of the patterns come from creators who were never given credit. Picking up these products could give indirect support to activities such as stealing other designer's ideas and allowing factories to treat their workers badly. Also, fast fashion is a major contributor to environmental issues because it produces lots of clothing quickly and leaves behind a lot of waste. Although it is essential for plays to be available to everyone, stability, respect for the art and sustainability must also be considered.

Even though inspiration is expected in fashion, following designs too much can hurt designers and the whole industry. Because there are not many laws protecting the work of designers, fast fashion brands use this to copy their designs. At the same time, people save money on fashion sometimes without realizing they are contributing to harmful ways. We should solve these problems by making clothes safe under the law, running ethical businesses and informing people about sustainability in the fashion industry.

Global Legal Approaches to Fashion IP Protection

Dealing with IP in fashion can be different around the world because every country applies IP

⁸ Gitte Mary, The Impact of Luxury: Are Designer Goods More Sustainable Than Fast Fashion?, **GitteMary.com** (Jan. 2023), <https://www.gittemary.com/2023/01/the-impact-of-luxury-are-designergoods-more-sustainable-than-fast-fashion.html>.

law differently when it comes to clothing designs⁹. Under the Copyright Act, fashion designs in the United States are not usually given extensive protection. Even though clothing items are usually not included, it does protect the artwork found in designs on textiles. Problems with safeguarding clothing designs brought about the Design Piracy Prohibition Act which aims to offer legal protection similar to copyright¹⁰. Yet, the legal change has not been able to pass through Congress which makes it hard for designers to prove cases of imitation in court.

Community Design Protection laws in the European Union give designers a wider range of protections. This system includes both unregistered design rights and registered design rights, giving fashion creators more ways to protect their work. Basically, unregistered designs only have limited protection, but registered designs get the longest legal protection. It helps designers protect the things they create from others in the industry.

The enforcement of IP laws in countries like China is weak which makes it difficult to protect fashion designs because of the large number of counterfeit items. Because many people can quickly copy and sell designers' work, it is often difficult for designers to protect their creations. Even though China has updated its IP laws, enforcing these laws is still uneven, so many fashion brands cannot fight copyright infringement successfully.

At a global level, agreements such as the Berne Convention and the TRIPS Agreement define the minimum amount of protections for intellectual property. IP rights are required by these agreements, but following them can happen more strictly in some nations than in others. Some nations protect fashion designs through strict legal rules, compared to others which ignore them more. That is why designers and fashion brands have difficulties protecting their exclusive property rights in several countries.

Fashion designers in different countries are sometimes better or more poorly protected by law.

Even if rules are reliable in a few areas, there are still difficulties preventing copying in others. As fashion grows, stronger intellectual property rules are needed to protect creative and

⁹ Luxury vs. Fast Fashion: Are Consumers Favouring Quality Over Quantity?, **Just Style** (July 19,), <https://www.just-style.com/news/luxury-vs-fast-fashion-are-consumers-favouring-quality-over-quantity>.

¹⁰ Top 10 Lawsuits Under Fashion Law, **Your Legal Career Coach**, <https://www.yourlegalcareercoach.com/top-10-lawsuits-under-fashion-law>.

innovative approaches.

Recent Trends and the Future of Fashion Law

Changes are taking place in the fashion world because of digital fashion and Non-Fungible Tokens (NFTs)¹¹. People use digital fashion tools to design computer-imagined clothes for their characters in computer games. Thanks to blockchain, designers can prove ownership of their NFTs and sell them by law. Because of this innovation, the unique designs in digital fashion are now protected under intellectual property (IP), allowing them to be monitored. But even today, the legal rules for NFTs are not fully established and the Copyright Act of 1976 in the U.S. does not handle all aspects of owning digital items¹².

An important progress in the fashion industry is using Artificial Intelligence (AI) and machine learning. New designs for fashion can be made with the help of AI tools looking at fashion fads and consumer opinions. It creates a legal issue about ownership: who rightfully owns the design of the AI, the person who made the system or the person who uses it? RIP law such as the Berne Convention, shields authors' work, but it is unclear how it covers AI-made content.

Experts are discussing if AI-created designs should be allowed to receive copyrights or whether they belong in public domain.

Proposed new laws try to add stronger design protections and support changes due to new technologies. Fashion designers benefit from stronger protection of their work by the Design Directive and the Community Design Regulation in the European Union. Legislators in the U.S. are considering how to change the Copyright Act to apply to works generated by AI and digital fashion. New laws for intellectual property would defend what designers make from being copied unlawfully¹³.

Besides shifting laws, what people think about fashion is also changing the industry. Because people have started to notice environmental and ethical problems, they prefer supporting brands that are sustainable. Due to these laws—the Modern Slavery Act in the UK and the California

¹¹ The State of Fashion 2024, **McKinsey & Co. & The Business of Fashion**, <https://www.mckinsey.com> (last visited June 5, 2025).

¹² Protecting Designs in the UK, **UK Intellectual Property Office**, <https://www.gov.uk/government/organisations/intellectual-property-office> (last visited June 5, 2025).

¹³ U.S. Copyright Office, Copyright Protection Not Available for Fashion Designs, <https://www.copyright.gov> (last visited June 5, 2025).

Transparency in Supply Chains Act—companies must make known their practices with workers and push for ethical standards. Because consumers care more about sustainability, brands in the fashion industry are using environmentally friendly materials and treating workers fairly.

Conclusion

Original designs are often protected by law, but much of the legal issues in fashion involve original design. Fast fashion usually drives high-end trends into stores very quickly, restricting the ability of designers to maintain uniqueness. Existing laws in intellectual property (IP) like copyright and design protection do not provide adequate computing for protecting items in the fashion industry. So, designers find themselves dealing with unauthorized copying which often results in legal arguments.

An important challenge is making sure innovation, easy access and protection are balanced. It is important for designers to be able to explore new ways to design, shoppers want trendy and pocket-friendly clothing and the original ideas should be safeguarded from being copied. Still, some laws fail to support this balance which leads to legal and ethical problems for the fashion industry.

Laws related to fashion IP need to be changed as the industry develops rapidly. Taking action including better protection of designs, assisting international cooperation and motivating ethical and sustainable fashion can improve fashion fairness. Modernizing IP laws allows the industry to promote new innovations, make them more available to people and give designers due credit for what they do.