



## Role of Intellectual Property Right in Fashion Industry

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### ABSTRACT

In today's business world, intellectual property plays the biggest role and contribution to the company. Intellectual property rights protect unique designs, ideas, concepts and products from counterfeiting. Infringement of intellectual property is a loss to the company and its brand. Intellectual property rights protect intellectual property, including private brands, specifically trademarks and geographical indications. Its purpose is to promote and ensure fair competition and to protect consumers. A study on the advantages and disadvantages of intellectual property in the fashion industry

Key word: Trade Mark, Copy Right, Pattern, Design etc.

### Introduction

Intellectual property rights play a major part in the fashion assiduity. It protects the design and preserves the oneness of each and every design from counterfeiting. A minor breach of intellectual property rights will affect in a substantial loss for the company. Now learn further about the Intellectual property laws that cover the fashion assiduity. Copyright is a set of legal rights granted to a particular person or inventor who created the design. By using this intellectual property right, competitors can be prevented from copying or publishing within the specified period. Applicants or creators can use their works without any restrictions. It is important to get permission from the owner to use a creative work<sup>1</sup>. With the development of science and technology in the 21st century, intellectual property rights are constantly evolving. They are not limited to one place; they are constantly expanding their resources. Today, smart devices are constantly changing and go hand in hand with the fashion industry. With a global market value of 500 billion dollars, the fashion industry is constantly developing and creating new trends. Therefore, it is very important to preserve the heritage associated with the fashion industry<sup>2</sup>.

These include proprietary intellectual property such as trademarks associated with certain brands and designs for certain garments. Artificial intelligence plays a key role in driving the fashion industry and supporting its growth. To build a strong and popular brand, it is important for any organization to monetize its intellectual property in order to grow. To monetize IP, it is important to establish a reasonable and reliable business value. This can be done by planning a good marketing strategy and distributing products in a way that maximizes profits and growth. Today, new trends in the fashion industry have had a huge impact on the global fashion industry. In today's world, fashion is not just limited to clothes. Intellectual property rights are intangible rights. Like conventional laws, it has no physical form. Heritage is the intellectual creation of its owner. It is used to protect an idea, an idea. The concept itself is not preserved. But production as a private idea can be preserved. Heritage is expression and art. They cover a wide range of topics in the fashion industry. The fashion industry is not limited to today's fashion as it is innovative by nature. Copyright law has contributed a lot to the fashion industry and has had a huge impact. Many types of intellectual property are used in the fashion industry.

Intellectual property is a combination of trademarks, copyrights, patents and designs. Intellectual property laws protect products and designs from copying or piracy. Smart devices have helped save fashion designers and manufacturers from the evils of fraud and imitation<sup>3</sup>.

### Aim and objectives

1. To study the positive and negative effect of IPR in fashion industry.
2. To protect of creative work, idea and preserved.
3. To protecting traditional and cultural designs in the fashion industry.
4. To promote economic growth and investment in company.

<sup>1</sup><https://vakilsearch.com/blog/intellectual-property-rights-in-the-fashion-industry/#:~:text=Under%20the%20Design%20Act%20of,meet%20the%20artistic%20work%20criteria> .

<sup>2</sup> <https://blog.ipleaders.in/importance-ip-fashion-industry/>

<sup>3</sup> <https://lawbhoomi.com/intellectual-property-rights-in-fashion-industry-in-india/>

5. To find Intellectual property right safeguards fair competition by preventing.
6. To promotes a culture of innovation and supports the growth of the industry.

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## Positive Effect

### Protection of creativity:

Intellectual right is safeguards the creative works of designers, including clothing design, fabric patterns, logos and trademark. This protection encourages designers to invest time, efforts and resources into developing innovative design, knowing that their creations are legally protected<sup>4</sup>.

### Incentive for innovation:

It is exclusive rights to designers; IPR provides an incentive for innovation in the fashion industry. Designers are motivated to come up with unique and groundbreaking designs to differentiate themselves from competitors and attract consumers. This competition leads to a constant stream of new ideas and styles, driving innovation and pushing the boundaries of fashion.

### Economic Growth and Job Creation:

The fashion industry plays a significant role in many economies, contributing to economic growth and job creation. IPR protection supports this growth by enabling designers, fashion brands, and manufacturers to establish and grow their businesses. With stronger IPR, companies are more likely to invest in the industry, leading to increased production, exports, and employment opportunities<sup>5</sup>.

### Counterfeiting and Piracy Prevention:

Counterfeit products and piracy are major issues in the fashion industry, resulting in substantial revenue losses for legitimate designers and brands. IPR protection helps combat these issues by giving designers the legal tools to take action against counterfeiters and infringers. This protection not only preserves the reputation and integrity of fashion brands but also safeguards consumers from purchasing low-quality, potentially harmful counterfeit goods.

### Collaboration and Licensing Opportunities:

IPR encourages collaboration and licensing arrangements in the fashion industry. Designers can license their designs, trademarks, or patents to other companies, allowing them to reach new markets, expand their brand presence, and generate additional revenue streams. Licensing agreements promote knowledge exchange, encourage partnerships, and foster the growth and globalization of the fashion industry<sup>6</sup>.

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## Negative effect

### Copying and Counterfeiting:

The fashion industry faces significant challenges from copying and counterfeiting. Counterfeit products, including fake designer clothing, accessories, and footwear, are widespread and can cause substantial financial losses for legitimate fashion brands<sup>7</sup>. The fast-paced nature of the industry and global supply chains make it difficult to effectively enforce IPR and prevent unauthorized copying<sup>8</sup>.

### Enforcement Issues:

Enforcing IPR in the fashion industry can be complex and time-consuming. It often requires extensive resources, expertise, and coordination among various stakeholders, such as designers, manufacturers, retailers, and law enforcement agencies. Identifying and taking legal action against infringers, especially in international markets, can be challenging, as laws and enforcement mechanisms differ across jurisdictions.

### Lack of Design Protection:

In some countries, fashion designs may not receive adequate protection under existing IPR laws. Unlike inventions that can be patented or original works that can be copyrighted, fashion designs often fall into a gray area. The absence of comprehensive design protection makes it easier for others to imitate or replicate designs without facing legal consequences.

### Fast Fashion and Trend Cycles:

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<sup>4</sup> [https://www.wipo.int/wipo\\_magazine/en/2018/04/article\\_0006.html](https://www.wipo.int/wipo_magazine/en/2018/04/article_0006.html)

<sup>5</sup> <https://lawbhoomi.com/intellectual-property-rights-in-fashion-industry-in-india/>

<sup>6</sup> <https://ipbulletin.in/ipr-in-fashion-industry/>

<sup>7</sup> <https://ipbulletin.in/ipr-in-fashion-industry/>

<sup>8</sup> <https://lawbhoomi.com/intellectual-property-rights-in-fashion-industry-in-india/>

The fashion industry operates on rapid trend cycles, with new designs constantly emerging and becoming obsolete quickly. This fast-paced environment makes it challenging for IPR laws to keep up with the speed of innovation and adequately protect designers' rights. By the time legal action is taken against infringers, the trend may have already passed, reducing the potential impact of enforcement.

#### Complex Supply Chains:

Fashion supply chains can be complex, involving multiple entities, including designers, manufacturers, suppliers, distributors, and retailers. Managing IPR across these interconnected networks can be difficult, as it requires clear communication, collaboration, and legal agreements to ensure the protection of intellectual property at each stage of the production and distribution process.

#### Cultural Appropriation:

The fashion industry has faced criticism for cultural appropriation, where designs, motifs, or traditional elements from marginalized cultures are used without proper acknowledgement or permission. Balancing the protection of IPR with respect for cultural heritage and avoiding exploitation is a complex challenge, requiring a nuanced understanding of cultural sensitivities and ethical considerations.

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## Trademarks

Trademarks are signs, symbols, marks and symbols that help distinguish one brand from another. Avoid "easy confusion" in the minds of customers. Each item is recommended by name. This drug says a lot without words. Nike branded ticks and Puma branded jaguars are among foreign brands. It has had the greatest impact on the fashion world. Registration of a trademark is important to protect it from potential infringement. A trademark protects a name from similar brands that can deceive and mislead consumers. Trademarks are governed by the Trademarks Act 1999<sup>9</sup>.

#### Trademark Registration<sup>10</sup>:

- a. Conduct a Trademark Search: Before filing a trademark application, it is advisable to conduct a comprehensive search to ensure your proposed trademark is not already in use or too similar to existing trademarks.
- b. Prepare the Application: Gather all the necessary information and documentation required for the application, including the trademark image, description of goods/services, and details of the trademark owner.
- c. File the Application: Submit the trademark application with the appropriate intellectual property office. The application may require payment of filing fees.
- d. Examination and Publication: The trademark office will examine your application for compliance with formalities and potential conflicts with existing trademarks. If no issues are found, the trademark will be published in an official gazette for opposition by third parties.
- e. Registration: If there are no successful oppositions or objections, and the application meets all requirements, the trademark will be registered, and a registration certificate will be issued.

Trademark Registration are Fashion brands often register trademarks to protect their brand names, logos, and symbols. Trademark registration provides exclusive rights to use and prevent others from using similar marks in relation to similar goods or services. It helps establish brand identity, prevents consumer confusion, and safeguards the reputation of fashion companies.

#### Trade Dress

A trademark is a type of intellectual property protection that occurs when a product acquires a secondary meaning. The visual characteristics of the product or packaging inform the consumer about the history of the product. Distinguishes the appearance and body of an object and traces its past. Business dress is a part or section of the law. An image, set, packaging or interior of a product is an example of a trade presentation. It also includes the tone and color of any object or object. For example, the design and colour of Adidas shoes.

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## Copy Right

Copyright protects writing, acting, art and video. Subject to the Copyright Act 1956. It rewards exclusive rights holders through financial benefits and encourages the production and creation of various works of art. Copyright includes the protection of both the physical and artistic works of the creator. It does not interfere with the protection of the workplace where it works. On the other hand, the Designs Act 2000 preserves the beauty and form of a design, including shape, arrangement, pattern, material, line and color.

However, often the line between design and custom design is often blurred. Protection under design law is for design protection only.

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<sup>9</sup> <https://blog.ipleaders.in/importance-ip-fashion-industry/>

<sup>10</sup> <https://www.kanakupillai.com/intellectual-property-dispute>

### Copy Right Registration<sup>11</sup>

- a. Create the Work Copyright protection is automatic upon the creation of an original work. However, you can choose to register your copyright to strengthen legal protection.
- b. Prepare the Application: Gather the necessary information, including a complete copy of the work, details of the author(s), and any other required documentation.
- c. File the Application: Submit the copyright registration application to the relevant copyright office. The application may require payment of filing fees.
- d. Processing and Certificate: The copyright office will process the application and review the submitted materials. If everything is in order, a copyright certificate or registration number will be issued.

Copyright protection automatically applies to original works of authorship, including fashion designs, sketches, patterns, and photographs. While copyright is automatic upon creation, registering copyrights with relevant authorities strengthens the legal protection and provides evidence of ownership in case of infringement disputes. Copyright protects the expression of an idea rather than the idea itself.

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### Patent

The apparel industry's innovative design is safeguarded by patent law. Two considerations need to be made in order to produce a patentable product. Both are both new and old. Designs should be honourable and distinctive. It contains items that were made for the first time. The design must also be supported by science. However, there is no patent law in the clothing sector. Even more of them can be found in technology. The procedure of registering a patent is expensive and time-consuming. The fashion industry is not extremely pricey because it is a dynamic one.

### Patent Registration<sup>12</sup>

- a. Conduct a Patent Search: Before filing a utility patent application, it is advisable to conduct a search to determine if your invention is novel and not already patented.
- b. Prepare the Application: Draft a detailed description of the invention, including claims that define the scope of protection sought. Create drawings, diagrams, or other illustrations to support the description.
- c. File the Application: Submit the utility patent application with the appropriate patent office. The application may require payment of filing fees.
- d. Examination and Grant: The patent office will examine your application to determine if the invention is novel, non-obvious, and meets other patentability criteria. If approved, a utility patent will be granted, and a patent certificate will be issued.

patents are less common in the fashion industry but can be relevant for new and innovative functional aspects of fashion products. Utility patents protect new and useful processes, methods, or inventions, including novel manufacturing techniques, innovative fabrics, or unique garment construction methods. Utility patents grant exclusive rights to use and prevent others from using the patented invention for a specific period.

### Design Patent<sup>13</sup>

- a. Prepare the Application: Create detailed drawings, images, or other representations of the design you want to protect. Prepare a description of the design if required.
- b. File the Application: Submit the design patent application to the appropriate intellectual property office. The application may require payment of filing fees.
- c. Examination and Grant: The design office will examine your application to ensure it meets the criteria for novelty and non-obviousness. If the application is approved, a design patent will be granted, and a certificate will be issued.

Design patents protect unique and ornamental designs of fashion products, such as clothing, footwear, and accessories. Design patent registration grants the owner the exclusive right to prevent others from manufacturing, selling, or using a similar design. Design patents focus on the aesthetic appearance of a product rather than its functional aspects.

### ***Intellectual property rights can contribute to a brand's growth and reputation.***

The strong and popular brand is known for its good business and value. Brand image plays an important role in attracting more customers and also supports the growth of the company. Creating a sustainable and sustainable goal requires the allocation and strategic use of assets. Intellectual property

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<sup>11</sup> <https://www.kanakupillai.com/intellectual-property-dispute>

<sup>12</sup> <https://www.kanakupillai.com/intellectual-property-dispute>

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has the desire to change the image format. Companies can share and acquire their intellectual property in various ways for maximum productivity and growth<sup>14</sup>.

### ***Protection of intellectual property from registration***

Defining, establishing and registering intellectual property is important. In today's world of counterfeit goods, everyone has access to print, film, film, etc<sup>15</sup>. You want to gain a competitive advantage by cheap means, so it's important to register your own intellectual property rights. IP registration in the digital world is affordable and easy. Investing in IP development funds is the basis for the long-term development of the enterprise. It also ensures that the brand is well known<sup>16</sup>.

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### **Global and online recognition**

Nowadays there's cut-throat market competition. Nowadays companies need to compete in a much broader marketplace than in the past. Therefore, the brands need to expand their global and online presence. For expanding their global presence, international registration of IP rights is important. To mark their presence on the online platform effective online marketing strategy is needed. Protection of online assets such as registering for domain names is also equally important. Fashion brands can showcase their products on various e-commerce websites. This will eventually increase their target audience and will also give due credit to their creators.

Building and sustaining a brand image is important for all organisations. Intellectual property assets need to be allocated and monetised in such a way as to garner more development in the fashion industry<sup>17</sup>.

Intellectual property, in other words, is the foundation of the fashion industry. IP and fashion are closely related. Both are incompatible, and neither can exist without the other. In order to increase a fashion design's exclusivity and guard against duplicity and plagiarism, intellectual property rights are required.

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### **Conclusion**

In conclusion, intellectual property rights (IPR) play a significant role in the fashion industry, providing both benefits and challenges. The positive effects of IPR in the fashion industry include the protection of creativity, incentive for innovation, economic growth, prevention of counterfeiting and piracy, and opportunities for collaboration and licensing. IPR safeguards the rights of designers, encourages investment in the industry, and contributes to a vibrant and thriving fashion ecosystem.

However, there are also negative effects associated with IPR in fashion. These include potential limitations on creativity and innovation, barriers to entry for emerging designers, higher prices and limited access to fashion products, potential hindrance to sustainable practices, and risks of cultural appropriation and exploitation.

Balancing the benefits and challenges of IPR in the fashion industry requires careful consideration and ongoing dialogue among stakeholders. Striking the right balance involves implementing strong IPR protection to incentivize creativity and investment while also ensuring accessibility, fostering inclusivity, encouraging sustainability, and respecting cultural heritage.

Ultimately, a well-designed IPR framework, coupled with appropriate enforcement mechanisms, can support a dynamic and diverse fashion industry that fosters innovation, protects rights, benefits consumers, and contributes to economic growth.

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<sup>14</sup> <https://blog.ipleaders.in/importance-ip-fashion-industry/>

<sup>15</sup> [https://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID2635087\\_code2315278.pdf?abstractid=2635087&mirid=1](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2635087_code2315278.pdf?abstractid=2635087&mirid=1)

<sup>16</sup> <https://ipbulletin.in/ipr-in-fashion-industry/>

<sup>17</sup> [https://www.wipo.int/wipo\\_magazine/en/2018/04/article\\_0006.html](https://www.wipo.int/wipo_magazine/en/2018/04/article_0006.html)