

ROLE OF COPYRIGHT FOR THE FASHION INDUSTRY IN INDIA

-Karma Thinlay Yolmo

ABSTRACT

This research focuses on the role of copyright in protecting original works, with a specific emphasis on the Indian fashion industry. The Copyright Act of 1957 and subsequent amendments form the legal framework, providing automatic protection upon creation. While the law safeguards tangible expressions of fashion designs, utilitarian elements remain outside its scope, presenting unique challenges. The narrative highlights the benefits of voluntary registration, detailing advantages such as simplified proof of ownership and statutory damages. The duration of protection for different artistic forms is outlined, emphasising the delicate balance needed between creators' rights and promoting innovation within India's dynamic fashion landscape.

I. INTRODUCTION

An author or creator's exclusive rights over their creative works are conferred under copyright. It guarantees that they have control over the use and distribution of their intellectual property and acts as a safeguard and incentive for their inventiveness. Within the fashion sector, copyright is essential for protecting designers' unique works from unapproved duplication or emulation.

The Copyright Act of 1957, updated to conform to international standards and address new issues in the digital era, governs copyright laws in India. Authors of literary works, musical compositions, films, pictures, paintings, sculptures, architectural designs, and even fashion designs have a complete framework for preserving their artistic expressions thanks to the Act.

Indian copyright law views fashion design as a creative expression. It is crucial to remember that practical elements like cuts and silhouettes are not protected by copyright law, even though original fashion designs are protected as artistic works once they are translated into tangible forms like sketches or drawings or made into clothes or accessories. The Indian fashion sector has distinct hurdles as a result of this constraint.

One crucial feature of copyright protection in India is that it exists immediately at the time of creation and doesn't require any procedures or registration. A fashion designer immediately gains copyright protection when they produce an original design that satisfies legal requirements for originality and distinctiveness. This clause guarantees that even modest designers with little funding can take advantage of legal defence against unapproved replication.

To strengthen rights against infringement, official registration of intellectual works can offer further advantages and valuable evidence. Through an online method, the Ministry of Commerce & Industry's Copyright Office enables the voluntary registration of copyrights. Benefits of registered copyrights include statutory damages in the event of infringement and simplicity in proving ownership in court.

The sort of work involved determines how long copyright protection lasts. Copyright protection for artistic, musical, and literary works typically lasts for the creator's lifetime plus an extra sixty years after their passing. On the other hand, copyright protection for sound recordings, pictures, and cinematographic films lasts a certain amount beyond the production date or publication.

Although copyright rules grant authors exclusive rights over their creations, it's critical to find a balance between upholding these rights and encouraging originality and creativity. The Indian copyright law contains fair use rules allowing limited use of copyrighted works for news reporting, critiques, criticism, and instructional purposes. By enabling others to expand on previously created works while upholding the original artists' rights, these exceptions hope to foster innovation.

To sum up, copyright regulations in India are essential for preserving unique fashion designs and other forms of artistic expression in the fashion sector. Although copyright protection restricts the practical elements of fashion designs, designers still have legal ways to safeguard their intellectual property through voluntary registration choices and automatic protection upon creation. Encouraging innovation while protecting artists' rights is essential to developing India's thriving fashion sector.

Keywords: *Copyright, Fashion Industry, IPR, Design Protection, India.*

LITERATURE REVIEW

1. Intellectual Property Rights: Crucial for Fashion Industry by Naman Priyadarshi¹

The article "*Intellectual Property Rights: Crucial for Fashion Industry*" by Naman Priyadarshi presents a complete review of the intersection between highbrow property rights (IPR) and the style industry. The author delves into the significance of IPR in safeguarding modern creations in the style enterprise, highlighting the various forms of IPR safety, which include trademarks, copyrights, and patents. The article gives insights into how every one of those varieties of safety performs a crucial function in keeping the integrity and originality of fashion designs, thereby contributing to the increase and sustainability of the enterprise. The literature reviewed in this text underscores the significance of IPR in fostering creativity, protecting the rights of creators, and promoting conducive surroundings for innovation inside the style quarter. The writer emphasises the complementary courting among IPR and the fashion enterprise, dropping light on the approaches in which logos, copyrights, and patents are potent tools for distinguishing original works from imitations and preventing unauthorised use or duplication of designs. Through carefully examining relevant case legal guidelines and examples, the object elucidates the actual-world implications of IPR violations. It emphasises the need for robust felony frameworks to uphold the rights of designers and manufacturers. Furthermore, the item highlights the unique nuances of IPR safety inside the context of the style enterprise, discussing the demanding situations and barriers related to acquiring patents for fashion-associated products and designs. By drawing on exquisite prison instances, the author demonstrates how disputes over trademark and patent infringement have sizable implications for the industry, underscoring the necessity of stringent enforcement of IPR legal guidelines and guidelines. The literature reviewed in this newsletter also emphasises the fashion industry's financial importance, especially in India's evolving market and growing middle magnificence. The article underscores India's capability to participate in the international fashion and garb quarter, emphasising the want for proactive measures to shield intellectual

property and foster a sustainable boom. Overall, the literature reviewed in this newsletter affords a comprehensive analysis of the complex courting between IPR and the style enterprise, underscoring the importance of criminal safety, enforcement, and policy measures to sell innovation, creativity, and financial development in the fashion quarter.

¹ Naman Priyadarshi, *Intellectual Property Rights: Crucial for Fashion Industry*, International Journal of Law Management & Humanities, Vol. 4 Iss 2; 1545, (Nov 5, 8:20 pm)

2. Applicability Of Intellectual Property Rights in The Realm of Fashion Industry by Shruti Mulgund²

Shruti Mulgund's research paper provides a comprehensive review of the importance of Intellectual Property Rights (IPR) inside the dynamic and swiftly evolving realm of the style enterprise. The creator highlights the continual problem of style piracy and its detrimental effect on designers and types. Through a rigorous evaluation of various felony provisions, the paper emphasises the essential role performed with the aid of IPR in protecting the creativity and innovation of fashion designers. Mulgund's work aligns with present literature that underscores the need to impose stringent laws to guard the highbrow assets of designers in the face of rampant counterfeiting and plagiarism. Notably, they emphasise the want for an extra consolidated and simplified felony framework to facilitate the registration manner for designers. This argument is strengthened by Naman Priyadarshini, who emphasises the vital role of IPR in increasing the style industry and advocates for implementing specialised fashion laws in India. Additionally, Vishaka Agarwal's work sheds light on the demanding situations posed by the lack of expertise about IPR in the Indian style industry, emphasising the importance of creating focus campaigns and offering ok aid for designers searching to protect their highbrow assets. These insights resonate with Mulgund's call for a simplified registration process and elevated guidance for designers navigating the legal complexities of IPR protection. Furthermore, the paper draws on the scholarly paintings of Kal Raustiala and Christopher Sprigman, who challenge conventional expertise regarding the efficacy of IPR in curtailing fashion piracy. Their perspectives activate an essential examination of the restrictions of modern-day felony measures in addressing the

chronic demanding situations posed via fashion piracy, underscoring the want for a more comprehensive approach to IPR safety. Sunanda Bharti's contribution to the literature, discussed in Mulgund's paper, specialises in the inadequacies of current highbrow belongings legal guidelines in protective the work of favour designers in India. Bharti's proposed solution of making wonderful variations of merchandise for safety below copyright and for mass production highlights the want for tailored felony provisions to deal with the precise needs of the style industry. The study's paper efficaciously synthesises these perspectives, supplying comprehensive information on the complicated interplay between intellectual assets rights and the style industry. It offers insights into designers' sensible, demanding situations and proposes relevant recommendations to bolster

² Shruti Mulgund, *Applicability of Intellectual Property Rights in The Realm of Fashion Industry*,

International Journal of Legal Science and Innovation, Vol. 4 Iss 1; 312, (Nov.4, 11:30 pm)

IPR protection inside the style area. Overall, Shruti Mulgund's research paper gives a nicely rounded evaluation of the prevailing literature, underscoring the pressing need for comprehensive prison reforms to defend the innovative endeavours of Favor designers and ensure the sustainable boom of the enterprise.

3. A Comparative Study of Copyright Protection in the Fashion Industry in India and USA by Upasna Rana[1]

The paper, with the aid of Upasna Rana, provides a comprehensive comparative analysis of copyright safety inside the style enterprise in India and the United States. The look starts with exploring the importance of copyright protection in the fashion enterprise, emphasising the considerable impact on the economic system and employment. Rana delves into the legal frameworks of each country, outlining the statutes and acts that govern copyright safety for style designers. The author examines the Copyright Act of 1957 and the Designs Act of 2000 in India, contrasting them with the American Constitution and the Copyright Act of 1976 in the USA. Rana highlights the beautiful provisions and limitations presented to creators within the style industry underneath these felony frameworks, focusing on

the exclusive rights granted to copyright proprietors and the recourse available in case of infringement. The paper meticulously examines the protection furnished to fashion designers, addressing the complexities of shielding designs, drawings, and articles. The observation additionally touches upon the challenges faced by the style industry, counterfeits, copyright infringement, and the financial repercussions of such practices. Additionally, the literature evaluation presents an insightful analysis of the legal treatments to designers in each country, including civil and criminal treatments, alongside a dialogue of ethical rights and the Doctrine of Exhaustion. Rana's examination emphasises the importance of registration beneath the respective copyright and layout legal guidelines to reinforce the felony safety available to designers. Moreover, the author assesses the shortcomings of the USA felony device in safely safeguarding the pastimes of fashion designers, juxtaposed in opposition to the complete safety afforded by way of Indian copyright legal guidelines. In conclusion, the paper sheds light on the contrasting techniques used by India and the USA to safeguard the intellectual assets of style designers. Rana's work underscores the want for green enforcement mechanisms and early movement to deal with copyright infringement, mainly in the dynamic and ever-evolving landscape of the fashion enterprise.

4. Utility Of Intellectual Property Rights Protection in The Fashion Industry: An Analytical Study by Karen Bobby⁴

The research article, titled "*Utility of Intellectual Property Rights Protection in the Fashion Industry: An Analytical Study*", authored by Karen Bobby, provides a complete analysis of the burgeoning fashion enterprise in India, emphasising the essential position of highbrow assets rights (IPR) safety in fostering innovation, creativity, and sustainable growth amidst the pervasive demanding situations posed utilising design piracy and unauthorised reproductions. In the context of this analytical study, the prevailing literature on the situation has highlighted the problematic interaction among robust prison frameworks and the fashion area, with students emphasising the critical significance of adequate IPR protection for safeguarding the monetary pastimes and innovative output of designers, in particular in light of the unfavourable effect of layout piracy on the profitability and

recognition of style manufacturers as explored through diverse researchers such as Lee et al. (2019). Additionally, pupils, which include Patel and Gupta (2020), have underscored the fantastic correlation between comprehensive IPR frameworks and multiplied funding in innovation, thereby fostering economic growth and worldwide competitiveness within the dynamic and rapidly evolving panorama of the style enterprise. Moreover, Wang and Zhang's (2018) insights into the complexities inherent in the felony interpretation of layout infringement have endorsed the implementation of nuanced and complete felony provisions that cater to the complex nuances of the style industry, thereby ensuring the protection of the creative endeavours of designers. Comparative research conducted by Müller and Schmidt (2016) has also contributed to the information of international perspectives on intellectual property legal guidelines within the style enterprise, providing treasured insights into best practices and potential regions for harmonisation and collaboration throughout numerous jurisdictions. In this regard, Karen Bobby's analytical study is valuable to the prevailing understanding body. It supplies a nuanced attitude at the Indian fashion industry's trajectory and the essential imperatives for robust IPR safety to preserve its boom and creativity.

⁴ Karen Bobby, *Utility of Intellectual Property Rights Protection in The Fashion Industry: An Analytical Study*, International Journal of Legal Science and Innovation, Vol. 3 Iss 1; 302, (Nov.4, 11:42 pm)

5. The Role of IPR in Fashion Industry by Yosha Dubey⁵

Yosha Dubey's article comprehensively explores the considerable function of Intellectual Property Rights (IPR) within the style industry, focusing on copyrights, patents, and emblems. The creator emphasises the importance of IPR legal guidelines in safeguarding original and innovative works within the fashion sector. The take look highlights the challenges of fashion piracy, including knockoffs and counterfeit merchandise. It underscores the need for prison protection to prevent copyright infringement and unauthorised copying. The literature assessment

discusses the applicability of copyright regulation to the fashion enterprise, emphasising the safety of artistic designs and prints underneath the Copyright Act of 1957. Dubey outlines critical felony instances, including *Unicolor, Inc. V. Urban Outfitters, Inc.* And *Ritika Apparels v. BIBA*, to demonstrate the importance of copyright protection and its barriers within the fashion region. The article delves into the intricacies of copyright length, providing insights into the lifespan of copyright protection for style designs. Furthermore, the paper explores the position of patents in the fashion industry, shedding light on the demanding situations related to securing patents for style designs. Dubey underscores the importance of patents for innovative innovations inside the style area. He gives a nuanced attitude on the limitations and complexities of acquiring patent safety for creative fashion work. The literature evaluation additionally highlights the significance of trademarks within the fashion industry, discussing the protection of emblem fairness and alternate dress beneath the Trademark Act of 1999. Dubey's analysis of outstanding legal cases and *Romag Fasteners, Inc. V. Fossil, Inc.* underscores the significance of trademark protection in maintaining emblem identity and distinguishing products within the marketplace. Ultimately, the item emphasises the evolving panorama of the style industry inside the context of globalisation and liberalisation. Dubey underscores the critical function of IPR in fostering innovation, stopping misappropriation, and ensuring the protection of original ideas and functions inside the style enterprise. The study emphasises the necessity of effective IPR rules to discourage plagiarism and shield the destiny of the fashion region. The creator shows that India's developing function inside the worldwide style and clothing marketplace necessitates robust protection and enforcement of IPR legal guidelines to preserve and foster the enterprise's boom.

⁵ Yosha Dubey, *The Role of IPR in Fashion Industry*, International Journal for Research in Applied Science & Engineering Technology (IJRASET), Volume 10 Issue I Jan 2022, (Nov.4, 11:46 pm)

6. Intellectual Property Rights: A Boon for the Fashion Industry by Aanchal K Golecha⁶

Aanchal K Golecha's article provides an insightful analysis of the critical role of Intellectual Property Rights (IPR) in the fashion industry, focusing on copyrights, patents, and trademarks. The author effectively highlights the challenges fashion designers face, such as counterfeiting and piracy, and underscores the need for robust legal protection to safeguard creativity and innovation within the fashion sector. The study delves into the Utilitarian Theory, the Personality Theory, and the Natural Rights Theory, emphasising their relevance in understanding the ownership of ideas and the protection of designs in the fashion industry.

The literature review discusses the implications of copyright law for fashion designs, shedding light on the complexities of protecting artistic work under the Copyright and Designs Act. Golecha's article outlines the intricacies of the Designer's Dilemma, presenting legal cases such as *Ritika Private Limited v. Biba Apparels Private Limited* and *Microfibers Inc. v. Girdhar & Co. & Anr.* to underscore the challenges faced by designers in navigating copyright and design law.

Furthermore, the paper explores the potential of patents in the fashion industry, providing insights into the criteria for patentability and their application in protecting fashion-related inventions. Golecha highlights the limitations and practical challenges of obtaining patent protection for fashion designs, citing examples from the fashion industry to underscore the complexities of securing patents for creative works.

The article also emphasises the significance of trademarks for fashion designers, discussing their role in establishing brand identity and preventing consumer confusion. The study outlines the challenges of obtaining trademark protection for non-brand names and descriptive marks, emphasising the importance of establishing a secondary meaning for trademarks in the fashion industry. Golecha's analysis includes prominent legal cases such as *Christian Louboutin S.A. v. Yves Saint Laurent Am. They are holding Inc.* to underscore the significance of trademarks in preserving brand exclusivity and identity.

In conclusion, the article calls for a comprehensive re-evaluation of existing intellectual property laws to serve the fashion industry's dynamic needs better. Golecha advocates for implementing effective IPR regulations at the grassroots level to combat counterfeiting and piracy, promoting the growth and development

of the fashion and textiles industry. The study emphasises the subjective nature of fashion and the need for robust legislation to safeguard the rights and creativity of fashion designers effectively. Aanchal K Golecha's work provides a comprehensive and well-structured analysis of the intricate relationship between IPR and the fashion industry, offering valuable insights into the legal challenges and opportunities within fashion design and creativity.

⁶ Aanchal K Golecha, *Intellectual Property Rights: A Boon for the Fashion Industry*, ILSIJLM, (Nov.4, 11:51 pm) [Intellectual Property Rights - A Boon for the Fashion Industry: Aanchal K Golecha - ILSIJLM \(indianlegalsolution.com\)](#)

7. A Critical Study on Fashion Design and its Protection under Copyright Act, 1957 and Designs Act, 2000 By Raveena. R. Nair & Dr, Anju Mohan⁷

The article provides an in-depth analysis of the challenges faced by the Indian fashion industry in protecting its designs under the Designs Act of 2000. It emphasises the limitations of the current legal framework, highlighting issues such as the time-consuming and expensive registration process, the lack of protection for unregistered designs, and the inadequacy of damages awarded in infringement cases.

Furthermore, it discusses the interaction between the Copyright Act and the Designs Act, emphasising the need for integrated protection that considers the dynamic nature of the fashion industry. The article proposes several critical amendments to the Designs Act, including a specific definition of "fashion design" and establishing a simpler and more efficient design registration system. Additionally, it suggests the introduction of provisions for protecting unregistered designs, acknowledging the importance of providing immediate protection to designers' creations.

The article underscores the critical role of intellectual property protection in fostering innovation and creativity within the fashion industry. It advocates for

implementing measures to enable emerging designers, small enterprises, and indigenous fashion workers to safeguard their designs effectively. By addressing the shortcomings of the current legal framework, the article seeks to promote a more robust and comprehensive system that supports the growth and development of the Indian fashion sector.

⁷ Raveena. R. Nair & Dr. Anju Mohan, *A Critical Study on Fashion Design and its Protection under Copyright Act, 1957 and Designs Act, 2000*, Baltic Journal of Law & Politics, Volume 15, Number 4 (2022), (Nov.4, 11:50 pm)

RESEARCH GAPS:

1. Limited research on the sensible effectiveness of copyright laws in addressing the chronic demanding situations of design piracy and unauthorised reproductions within the Indian fashion enterprise.
2. Inadequate exploration of the unique hurdle's designers confronts in the copyright registration method and the enforcement of felony treatments towards infringement.
3. Insufficient cognisance of the capability upgrades and realistic packages of logos and patents inside the context of retaining brand identification and fostering innovation in the Indian fashion area.
4. There is an absence of comprehensive hints and suggestions for criminal reforms and incorporated protection mechanisms tailor-made to the particular needs and demands of the Indian-style industry, considering the evolving global market and technological improvements.

RESEARCH METHODOLOGY:

Methods

The study used for this paper is a mixture of Empirical and Doctrinal Methods. The Primary sources used include questionnaires, responses from respondents, etc. The Secondary sources include sources from Journals, articles, newspapers, etc. A structured “8 Questions” questionnaire was used to collect empirical data. The tool which was used for data collection is “Google Form”. The researcher has adopted random sampling methods to identify unfiltered responses from the --- Participants of the survey. To present the study, the researcher has used the Bluebook: A Uniform System of Citation (*19th Edition*) as it is the most convenient and reliable citation method to accredit the primary and secondary sources in legal research.

Time and Place of the Data Collection

The Structure and planning of the Questionnaire commenced for 15 days. The data was collected online in November 2023 with the help of Google Forms. The data collection and analysis were completed in 17 days.

STATEMENT OF PROBLEM:

In the context of the Indian style industry, the function of copyright protection isn't very well understood, and there may be a loss of exploration concerning its interplay with other sorts of highbrow property, including emblems and patents. Practical demanding situations in copyright registration, enforcement, and proof of infringement, mainly within the virtual landscape, have not been adequately tested. The influence of India's rich cultural heritage on the translation and enforcement of copyright legal guidelines and the challenges of balancing cultural traditions with contemporary copyright practices remain underexplored. Furthermore, the absence of tailored coverage suggestions and reforms unique to the Indian style industry hinders the effective strengthening of copyright safety and enforcement mechanisms, consequently proscribing sustainable growth and innovation within the sector.

RESEARCH OBJECTIVES:

1. To identify and evaluate the practical challenges faced by designers and brands in the process of copyright registration, enforcement, and the establishment of proof in cases of infringement, particularly within the context of the evolving digital environment and the increasing prevalence of e-commerce platforms in India.
2. To examine the cultural and artistic influences shaping the interpretation and enforcement of copyright laws in the Indian fashion industry, focusing on the complexities of preserving cultural heritage and indigenous designs while adhering to contemporary copyright practices and standards.
3. To propose specific policy recommendations and reforms tailored to the Indian context to strengthen copyright protection and enforcement mechanisms within the fashion industry and foster an environment conducive to sustainable growth, innovation, and the protection of creative works in India.

RESEARCH QUESTIONS:

1. What specific challenges do designers and brands face in the process of copyright registration, enforcement, and the establishment of evidence in cases of infringement within the dynamic digital landscape and the growing prominence of e-commerce platforms in India's fashion industry?
2. How do the cultural and artistic influences inherent in India's rich heritage shape the interpretation and enforcement of copyright laws in the contemporary Indian fashion landscape, and what are the critical challenges involved in maintaining a balance between preserving cultural traditions and complying with modern copyright practices and standards?
3. What specific policy recommendations and reforms can be proposed and implemented within the Indian fashion industry to strengthen copyright protection and enforcement mechanisms, foster sustainable growth and innovation, and ensure the practical safeguarding of the creative works and intellectual property of designers and brands in India?

II. CURRENT STATE OF COPYRIGHT PROTECTION IN THE INDIAN FASHION INDUSTRY

The Indian fashion industry is a vibrant and dynamic sector contributing significantly to the country's economy. Known for its rich heritage and diverse culture, India has become a global hub for fashion and textiles. The industry encompasses various segments, including traditional ethnic wear, contemporary fashion, luxury brands, accessories, and fabrics. The Indian fashion industry thrives on its skilled craftsmanship, intricate designs, and use of indigenous materials.

It showcases a perfect blend of traditional roots with modern influences. The industry has gained international recognition, with renowned designers showcasing their collections at prestigious events like Lakme Fashion Week and India Fashion Week. However, despite its rapid growth and immense potential, the Indian fashion industry faces challenges in terms of copyright protection.

- **Challenges**

The Indian fashion industry faces numerous challenges in terms of copyright protection. Firstly, the absence of specific laws addressing fashion design copyrights hampers adequate protection. This leads to the exploitation of designers' creations without legal consequences for infringers. Additionally, the lack of awareness among designers regarding copyright laws and their enforcement further exacerbates the problem. This can deter small designers from pursuing legal action against larger companies that may infringe on their work⁸.

Furthermore, the prevalence of counterfeit products and imitation designs in the market poses a significant challenge to protecting original creations. The complex nature of fashion trends and constant change also makes establishing clear boundaries for copyright protection in this dynamic industry challenging.

⁸ Shreya Patel, *Copyrighting Clothing Designs: Is It Possible or Impossible?* CORPBIZ <https://corpbiz.io/learning/copyrighting-clothing-designs-is-it-possible-or-impossible/>

- **Measures Taken to Strengthen Copyright Protection in The Indian Fashion Industry**

In recent years, the Indian fashion industry has witnessed a growing need to strengthen copyright protection measures. Intellectual Property Rights (IPR) help safeguard the creators' rights against using their design's print, aesthetic characteristics, or product features⁹. One significant measure is the establishment of the Indian Fashion Design Council (IFDC) in 1998, which aims to promote and protect original designs through various educational programs and legal support.

Additionally, the Copyright Act of 1957¹⁰ has been amended multiple times to encompass fashion designs under its purview. This amendment grants designers' exclusive rights over their creations for a specified period. Furthermore, collaborations between industry stakeholders and law enforcement agencies have increased awareness about copyright infringement issues and facilitated the enforcement of legal actions against violators, thereby providing a more robust framework for copyright protection in the Indian fashion industry.

- **Future Prospects for Copyright Protection in The Indian Fashion Industry**

Despite the challenges faced by copyright protection in the Indian fashion industry, there are promising prospects for its improvement. With increased awareness of intellectual property rights among the consuming public and brand owners taking action against counterfeiters, the end of this epidemic may be possible soon¹¹. With increased knowledge about copyright laws and their benefits, designers will likely become more proactive in seeking legal protection for their creations.

Additionally, efforts by the government to strengthen copyright laws and enforce stricter penalties for infringement are expected to impact the industry positively. Introducing specialised courts and dedicated intellectual property cells can expedite legal proceedings, providing a more efficient platform for resolving disputes. Moreover, collaborations between industry associations and legal experts can be crucial in educating designers about copyright protection and providing them with the necessary support.

⁹ Khushi Birla, *Fashion and PGCL*
Moot Court Society

<https://www.mootcourtsocietypgcl.com/post/fashion-and-ipr>

¹⁰ The Indian Copyright Act, 1957

¹¹ Vivek J. Vashi, *Recent trends in IP infringement in the fashion industry*, Enhelion Blog <https://enhelion.com/blogs/2023/05/12/recent-trends-in-ip-infringement-in-the-fashion-industry/>

III. CHALLENGES AND LIMITATIONS IN COPYRIGHT REGISTRATION PROCESS

Copyright registration is a crucial step in safeguarding the rights of creators and authors by providing legal protection for their original works. In India, the Copyright Act of 1957 governs the copyright registration process and is administered by the Copyright Office. This process involves applying the necessary documents to obtain a copyright certificate, which acts as prima facie evidence of ownership.

The copyright registration process in India aims to promote creativity and encourage individuals to protect their intellectual property. It offers numerous benefits, such as legal remedies against infringement, easy access to evidence in case of disputes, and facilitation of licensing or assignment agreements. However, despite its significance, this process also faces challenges and limitations that can hinder its effectiveness. These challenges range from procedural complexities and delays in processing applications to inadequate infrastructure for digital submissions.

Additionally, creators have limited awareness regarding the importance of copyright registration and how it can benefit them.

- **Challenges Faced During Copyright Registration in India**

One of the common challenges faced during the copyright registration process in India is the lengthy and time-consuming procedure. The application process often involves multiple stages, including applying, waiting for an examination,

responding to queries or objections raised by the authorities, and awaiting final approval. This can result in a significant delay in obtaining copyright protection.

Another challenge is the lack of awareness among creators regarding copyright laws and the importance of registration. Many individuals are unaware of the benefits and legal protections of copyright registration. This leads to a low rate of voluntary registrations and subsequently leaves creative works vulnerable to infringement.

Furthermore, limited resources and workforce within copyright offices contribute to delays in processing applications. Insufficient staff often result in backlogs, further prolonging the already time-consuming procedure.

Addressing these challenges would require streamlining the application process, raising awareness about copyright laws among creators, and allocating more resources to copyright offices to handle applications efficiently.

- **Limitations Of Copyright Registration System in India**

One limitation of the copyright registration system in India is the lengthy and time-consuming process. The current system requires applicants to submit physical copies of their work, often leading to delays due to paperwork and manual processing. This increases the administrative burden and results in prolonged waiting periods for copyright certificates. Moreover, the absence of an online platform for submission and tracking further hampers efficiency.

Copyright registration is essential as it provides several benefits to the creator¹². Many individuals fail to realise that copyright protection is automatic upon creation, leading to many unregistered works. This poses challenges when enforcing copyrights and can result in difficulties during legal disputes.

Additionally, the limited resources and infrastructure available for handling copyright registrations further impede the system's efficiency, making it difficult for creators to protect their intellectual property effectively.

- **Proposed Solutions to Overcome Challenges and Limitations in the Copyright Registration Process in India**

- i. Streamline the registration process: Simplify and digitise the copyright registration system to reduce paperwork, eliminate bureaucratic hurdles, and expedite the process. This could be achieved through online submission of applications, automated document verification, and centralised databases.
- ii. Enhance awareness and accessibility: Conduct widespread campaigns to educate creators about copyright laws, registration benefits, and the importance of protecting their intellectual property. Establish dedicated helplines or support centres to assist applicants with queries related to the registration process.
- iii. Strengthen enforcement mechanisms: Allocate sufficient resources for enforcing copyright infringement cases and establish specialised courts for swift resolution of disputes. This would discourage piracy and ensure timely protection of copyrighted works.
- Iv. Foster international cooperation: Collaborate with international organisations to harmonise copyright laws and procedures across borders, facilitating easier recognition and protection of Indian copyrights globally.

¹² Legaldev, *Get Copyright Registration services with Our Professional Experts*

<https://legaldev.in/Application-For-Copyright-Registration.aspx>

IV. LEGAL REFORMS AND INTEGRATED PROTECTION MECHANISMS IN THE INDIAN FASHION INDUSTRY

The Indian fashion industry has experienced exponential growth over the past few decades, emerging as a significant player in the global fashion landscape. India, a country renowned for its diverse cultural heritage and unique fashion designs, can immensely benefit from a robust implementation of intellectual property rights in the fashion industry¹³. However, amidst this rapid expansion, there is an urgent need

for legal reforms to ensure the protection and well-being of all stakeholders within the industry.

The absence of comprehensive legislation tailored to address issues unique to the fashion sector has left room for exploitation and unfair practices. This subtopic explores the challenges faced by various players in the Indian fashion industry, such as designers, artisans, models, and workers. It will delve into issues like intellectual property rights infringement, labour rights violations, unethical working conditions, and lack of standardised contracts.

- **Key Legal Reforms Implemented in The Indian Fashion Industry**

In recent years, the Indian fashion industry has witnessed significant legal reforms to enhance its functioning and protect the stakeholders' rights. One noteworthy reform is the introduction of intellectual property rights (IPR) protection measures. These measures safeguard designers' original creations by granting them copyright protection and preventing unauthorised copying or replication. Additionally, reforms have been implemented to address the prevalence of labour exploitation in the industry.

The introduction of labour laws has helped protect workers' rights, ensuring fair wages and safe working conditions and prohibiting child labour. Another crucial legal reform pertains to consumer protection. The establishment of consumer rights legislation ensures that customers are not misled by deceptive advertising or substandard product quality. This regulation fosters transparency and accountability within the fashion industry. Furthermore, reforms have been enacted to encourage sustainable practices within the sector.

Legislation promoting eco-friendly materials and manufacturing processes aims to reduce environmental harm caused by excessive resource consumption and waste generation.

¹³ Sanjeev Ghanghash, *Fashion Law in India: The Opportunities, Challenges and What Lies Ahead*, LinkedIn <https://www.linkedin.com/pulse/fashion-law-india-opportunities-challenges-what-lies-ahead-ghanghash>

- **Integrated Protection Mechanisms for Workers in The Indian Fashion Industry**

Integrated protection mechanisms for workers in the Indian fashion industry aim to ensure the well-being and rights of employees within this dynamic sector. These mechanisms encompass various measures that address the concerns faced by workers, including fair wages, safe working conditions, and social security benefits.

One key aspect is the implementation of labour laws that protect workers' rights, such as minimum wage regulations and limits on working hours. Additionally, efforts are being made to enhance workplace safety through regular inspections and compliance with occupational health standards.

Initiatives promoting social security benefits have been introduced to safeguard workers' interests further. This includes schemes for healthcare coverage, insurance coverage against accidents or disabilities, and access to welfare programs.

Moreover, awareness campaigns are being conducted to educate workers about their rights and empower them to report any violations or unfair practices they may face. These integrated protection mechanisms strive to create a more equitable and sustainable working environment in the Indian fashion industry.

- **Impact Of Legal Reforms and Integrated Protection Mechanisms on The Indian Fashion Industry**

The impact of legal reforms and integrated protection mechanisms on the Indian fashion industry has been significant. These reforms have addressed various issues, such as copyright infringement, counterfeiting, and exploitation of workers in the industry.

One significant impact has been strengthening intellectual property rights (IPR) protection. Fashion law experts can guide designers through the nuances of copyright, patents, and

trademarks, ensuring their creation's legal protection¹⁴. This has encouraged innovation and creativity within the industry.

Moreover, integrated protection mechanisms have played a crucial role in ensuring fair labour practices and better working conditions for garment workers. By implementing stringent labour laws, including minimum wage requirements and workplace safety regulations, the industry is gradually moving towards providing a more secure environment for its workforce.

Overall, these legal reforms and integrated protection mechanisms have not only enhanced the reputation of the Indian fashion industry but also contributed to its sustainable growth by fostering a fair and ethical business environment.

V. EMPIRICAL ANALYSIS OF THE ROLE OF COPYRIGHT FOR THE FASHION INDUSTRY IN INDIA

Introduction

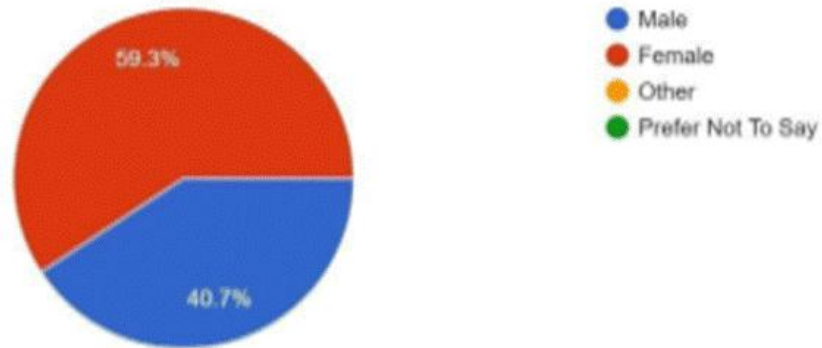
In this chapter, the researcher presents first-hand information collected from the respondents with the help of a questionnaire in Google Forms. The Questionnaire comprises *ten questions*. Apart from this, the preliminary questions were about the Name, Age, and Gender of the respondents. Based on the results, the researchers have understood the level of awareness among Indian citizens. Overall, the researcher got the questionnaire for this study filled out by *27 respondents*.

Classification of Respondents

Table 1 gives the details of the respondents. Their ages and genders are represented. The segregation of gender is done to note their differences in viewpoints. The researcher took four categories of age, in which ten years was the lowest, and 35 and above was the highest. Of 27 respondents, 57.1 % were females, and 42.9 % were male. The age category of (25-35) responded in the majority (42.9%), whereas the lowest response was from the age group of (35 and above), making it (25%).

¹⁴ Ibid 7

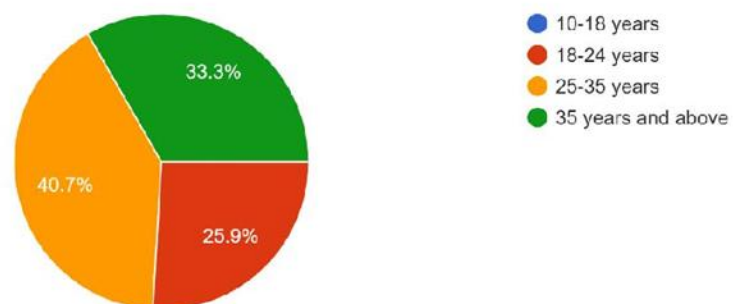
Gender:
27 responses



PIE CHART OF GENDER WISE CATEGORY

PIE CHART OF AGE RESPONSES

What is Your Age:
27 responses



AGE CATEGORY	MALE	FEMALE
10-18 YEARS	-	-
18-24 YEARS	12.95%	12.95%
25-35 YEARS	20.35%	20.35%
35 AND ABOVE	16.65%	16.65%
TOTAL NUMBER	13.5	13.5

TABLE 1: Age Group and Gender of The Respondents

In this picture chart labelled as Table 1, it can be seen that the respondents were only *Male* and *Female*. There were equal responses from both Male and Female respondents.

General Awareness

Question 1:

How familiar are you with the concept of "copyright" in relation to the fashion industry?
27 responses

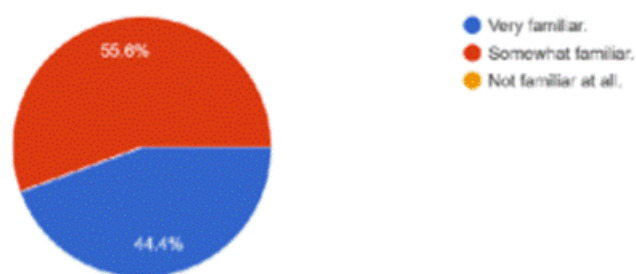


Figure 1: General Awareness of the concept of “copyright” in the Fashion Industry.

The first question in the questionnaire aimed to analyse people's knowledge of copyright in the fashion industry. As seen above in the pie chart labelled Figure 1. The researcher gave three possible scenarios under which Copyright in the fashion industry was involved. The options offered to the respondents were ‘Very Familiar’, ‘Somewhat Familiar’, and ‘Not Familiar at All’. Most respondents (55.6%) were in the “Somewhat Familiar” category. Out of which (44.4%) chose “Very Familiar” as their answer.

Question 2:

Do you believe that strong copyright laws are essential for protecting the creativity of fashion designers in India?

27 responses

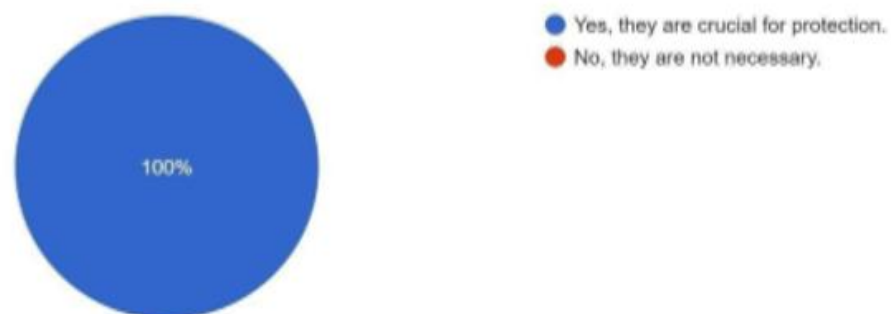


Figure 2: Pie chart. Do you believe that solid copyright laws are essential for protecting the creativity of fashion designers in India?

All of the respondents (100%) stated that they believe that strong copyright laws are essential for protecting the creativity of fashion designers in India.

Question 3:

Have you ever come across counterfeit fashion products or designs that imitate well-known brands in the Indian market?

27 responses

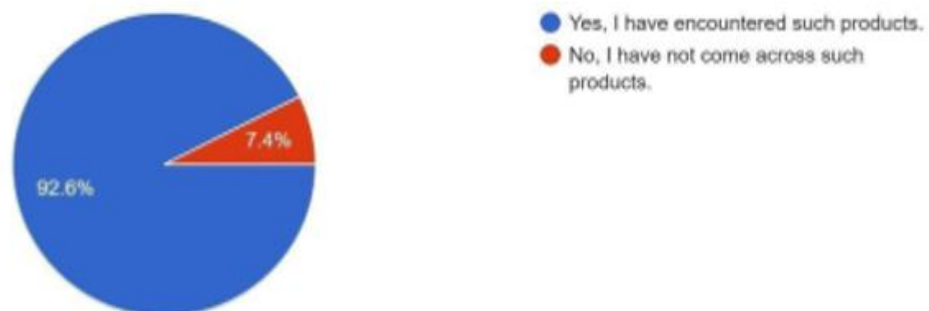


Figure 3: Have you ever encountered counterfeit fashion products or designs that imitate well-known brands in the Indian Market?

The pie chart labelled Figure 3 shows knowledge of counterfeit fashion products or designs that imitate well-known brands in the Indian market. The result has been divided into two

categories. *“Yes, I have encountered such products”* or *“No, I have not encountered such products”*. Concerning the choices, the majority of the respondents (92.6%) chose *“Yes”* as their answer. I was followed by (7.4%) who chose *“No”* as their answer.

Question 4:

Do you think there is a need for increased awareness campaigns about copyright protection in the Indian fashion industry?

26 responses

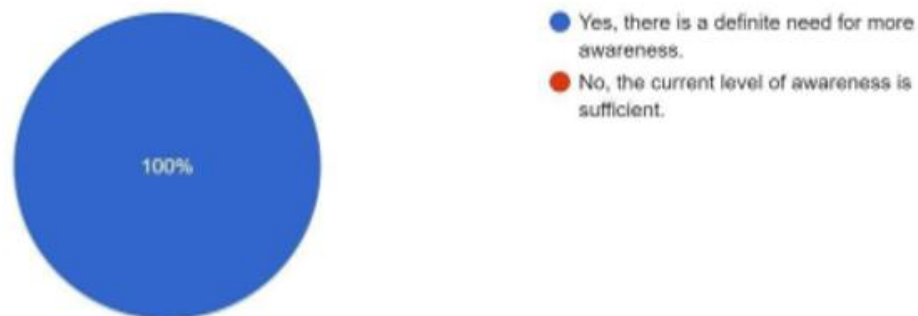


Figure 4: Are you aware of the challenges faced by fashion designers in India regarding the protection of their creative work under current copyright laws?

Under this category, most respondents (59.3%) chose “*Yes, I am aware of the challenges*” as their answer. While (40.7%) responded, “No, I am not aware of the challenges.

Question 5:

Figure 5: Do you think there is a need for increased awareness campaigns about copyright protection in the Indian fashion industry?

Under this category, the respondents (100%) think there is a need for an increased awareness campaign about copyright protection in the Indian Fashion Industry.

Question 6:

What measures do you think can help prevent the proliferation of counterfeit fashion products in the Indian market?

27 responses

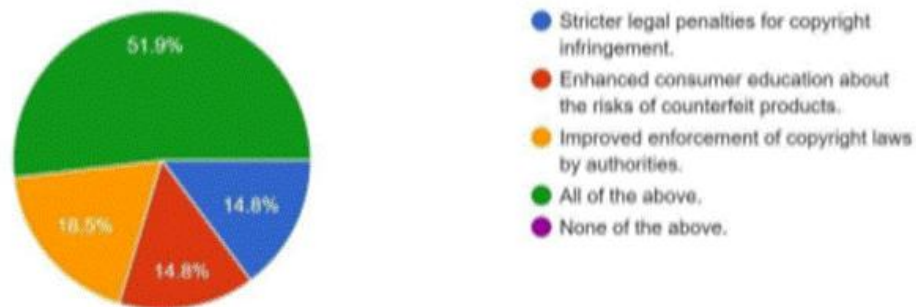


Figure 6: What measures can help prevent the proliferation of counterfeit fashion products in the Indian market?

When we examine Figure 6, there have been mixed responses regarding this category. The maximum number of respondents (51.9%) were for *“All of the above”*. In comparison (18.5%) responded with *“Enhanced consumer education about the risk of counterfeit products”*. In contrast, there was a neutral response to *“Improved enforcement of copyright laws by authorities”* and *“Stricter legal penalties for copyright Infringement”*.

Question 7:

How important do you think it is for the Indian government to prioritize the development of specialized legal frameworks for the protection of fa... and intellectual property in the fashion industry?
27 responses

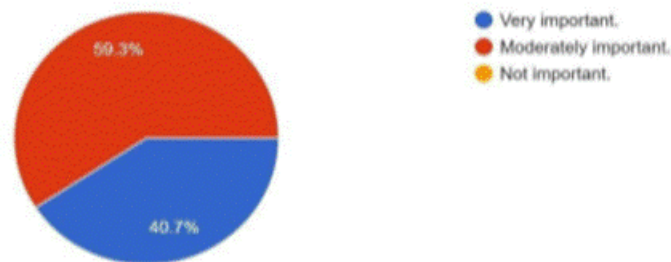


Figure 7: How important is it for the Indian government to prioritise developing specialised legal frameworks to protect fashion designs and intellectual property in the fashion industry?

The above-given pie chart clearly states (59.3%) of respondents think that it is *“Moderately important”* for the Indian government to prioritise the development of specialised legal frameworks for the protection of fashion designs and intellectual property in the fashion industry, whereas (40.7%) responded as *“Very important”*.

Question 8:

In your own words, how do you think more robust copyright protection can benefit the Indian fashion industry? Please provide a brief explanation.

When it came to this question from the questionnaire, most of the responses were that *“Stronger copyright protection can very much benefit the Indian fashion industry as it can help prevent counterfeiting of products and replication”*.

Concluding Remarks

The survey results revealed that the respondents do possess knowledge of “Copyright in the Fashion Industry in India”. The majority of them are aware of how Copyright can be infringed. The survey was a step forward in encouraging knowledge of copyright of fashion industry. Still, there needs to be more awareness amongst the age group of 18-24.

Conclusion

Findings:

Based on the Doctrinal and Empirical research, the following are the findings of the study:

- The majority of respondents (55.6%) view that they are familiar with the concept of "copyright" in the fashion industry, out of which (44.4%) were somewhat familiar.
 - (100%) of the respondents answered that they believe that strong copyright laws are essential for protecting the creativity of fashion designers in India.
 - (92.6 %) of respondents agree that they Have encountered counterfeit fashion products or designs that imitate well-known brands in the Indian market. Out of these (7.4%) have not yet come across such products
 - Majority respondents (59.3%) answered yes to awareness of the challenges faced by fashion designers in India regarding protecting their creative work under current copyright laws. While (40.7%) answered No as their response.
 - A majority of (100%) responses were that they think there is a need for increased awareness campaigns about copyright protection in the Indian fashion industry.
 - There were mixed answers to the question, “What measures do you think can help prevent the proliferation of counterfeit fashion products in the

Indian market?”. Most (51.9%) respondents answered “All of the above”. While there were few (18.5%) who responded that there should be “Improved enforcement of copyright laws by authorities”. Lastly, there were equal responses of about (14.8%) each as “Stricter legal penalties for copyright infringement” and “Enhanced consumer education about the risks of counterfeit products”.

- Many respondents (59.3%) responded with “Moderately important” as their answer to the question “How important do you think it is for the Indian government to prioritise the development of specialised legal frameworks for the protection of fashion designs and intellectual property in the fashion industry”. While there were (40.7%) respondents who chose to answer “Very important” as their response.
- Majority of respondents (100%) answered Yes, it can benefit the Indian fashion industry as their response to the question, “In your own words, how do you think stronger copyright protection can benefit the Indian fashion industry?”.

VI. SCOPE FOR FURTHER RESEARCH

☐ *Policy Recommendations and Reforms:*

More research is required to formulate comprehensive policy suggestions and legislative reforms that are especially suited to the unique requirements of the Indian fashion sector. This can entail investigating how developing technology and changing international markets require flexible and progressive copyright protection strategies.

☐ *Global Collaborations for Protection:*

It would be beneficial to evaluate the viability and implications of international agreements and cooperation aimed at bolstering the copyright protection of Indian

fashion designs globally. Investigating possible alliances with other nations may help build a robust global framework for protecting fashion intellectual property.

□ *Digital Landscape and E-commerce Impact:*

Further investigation is necessary to understand the implications of the ever-changing digital environment and the increasing prevalence of e-commerce platforms on copyright enforcement, registration, and infringement evidence in the Indian fashion industry.

□ *Exploring Cultural Dynamics:*

In-depth studies of the complex cultural dynamics influencing the interpretation and implementation of copyright laws in the Indian fashion industry could examine how the nation's rich cultural legacy interacts with modern copyright laws and the difficulties in balancing local customs with international copyright norms.

VII. RECOMMENDATIONS

□ *Educational Initiatives:*

Supporting focused educational programs that raise consumers', brands', and designers' knowledge of copyright regulations is recommended. This entails highlighting their significance and how they support the development of a vibrant and moral fashion ecology.

□ *Technological Integration:*

Promoting the use of technology, such as blockchain, is crucial in the safe and traceable registration and enforcement of copyright. It is necessary to conduct further research on how technology developments might strengthen the protection of creative works, particularly in the digital era.

□ *Tailored Age-Specific Campaigns:*

It is suggested that awareness programs be tailored to the age demographics of the target audience, with an emphasis on the 18–24-year-old range. Communication tactics and messaging must be tailored to properly resonate with this target group.

□ *International Cooperation:*

It is essential to promote cooperation between foreign organisations and Indian authorities to standardise copyright policies and practices. We can make it easier for Indian copyrights to be recognised and protected globally.

□ *Government Support and Legal Frameworks:*

It is crucial to advocate for the government's ongoing support of developing legislative frameworks that uphold the rights of designers and artists. The creation of specific legislative frameworks adapted to the particular requirements of the fashion sector is emphasised by this proposal.

VIII. CONCLUDING REMARKS

In conclusion, the research sheds light on the intricacies and obstacles presents in the copyright environment of the Indian fashion business. The results highlight the necessity of specific legislation changes, increased awareness, and technology integration to strengthen copyright protection. The industry is changing due to globalisation and technological breakthroughs; thus, creating an atmosphere that protects intellectual property, encourages creativity, preserves cultural heritage, and guarantees moral behaviour is critical. Strengthening the legal framework, educating stakeholders, and forming cooperative efforts for the comprehensive growth of the Indian fashion sector are the goals of the proposals and areas for further research.

IX. REFERENCE

- Shruti Mulgund, *Applicability of Intellectual Property Rights in The Realm of Fashion Industry*, International Journal of Legal Science and Innovation, Vol. 4 Iss 1; 312.
- Naman Priyadarshi, *Intellectual Property Rights: Crucial for Fashion Industry*, International Journal of Law Management & Humanities, Vol. 4 Iss 2; 1545
- Upasna Rana, *A Comparative Study of Copyright Protection in Fashion Industry in India and USA*, International Journal of Law Management & Humanities, Vol. 4 Iss 4; 1374.
- Karen Bobby, *Utility of Intellectual Property Rights Protection in The Fashion Industry: An Analytical Study*, International Journal of Legal Science and Innovation, Vol. 3 Iss 1; 302.
- Yosha Dubey, *The Role of IPR in Fashion Industry*, International Journal for Research in Applied Science & Engineering Technology (IJRASET), Volume 10 Issue I Jan 2022.
- Aanchal K Golecha, *Intellectual Property Rights: A Boon for the Fashion Industry*, ILSIJLM, (Nov.4, 11:51 pm) Intellectual Property Rights - A Boon for the Fashion Industry: Aanchal K Golecha - ILSIJLM (indianlegalsolution.com)
- Raveena. R. Nair & Dr Anju Mohan, *A Critical Study on Fashion Design and its Protection under Copyright Act, 1957 and Designs Act, 2000*, Baltic Journal of Law & Politics, Volume 15, Number 4 (2022).
- Shreya Patel, *Copyrighting Clothing Designs: Is It Possible or Impossible?* CORPBIZ <https://corpbiz.io/learning/copyrighting-clothing-designs-is-it-possible-or-impossible/>
- Khushi Birla, *Fashion and IPR*, PGCL Moot Court Society <https://www.mootcourtsocietypgcl.com/post/fashion-and-ipr>
- Vivek J. Vashi, *Recent trends in IP infringement in the fashion industry*, Enhelion Blog <https://enhelion.com/blogs/2023/05/12/recent-trends-in-ip-infringement-in-the-fashion-industry/>

- Sanjeev Ghanghash, Fashion Law in India: The Opportunities, Challenges and What Lies Ahead, LinkedIn <https://www.linkedin.com/pulse/fashion-law-india-opportunities-challenges-what-lies-ahead-ghanghash>
 - Legaldev, *Get Copyright Registration services with Our Professional Experts:* <https://legaldev.in/Application-For-Copyright-Registration.aspx>
-

[1] Upasna Rana, *A Comparative Study of Copyright Protection in Fashion Industry in India and USA*, International Journal of Law Management & Humanities, Vol. 4 Iss 4; 1374, (Nov.4, 11:37 pm)