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# INSPIRATION OR INFRINGEMENT: EVALUATING INTELLECTUAL PROPERTY RIGHTS IN INDIA'S FAST FASHION SECTOR

- Archita Sharma<sup>1</sup>

## ABSTRACT

Fast fashion has transformed the clothing industry by making trends accessible, affordable, and rapidly consumable. This model is designed with the objective of bringing the newest styles to the market rapidly, to boost consumers' impulse purchases while the items remain in trend. Yet, this accelerated cycle raises significant concerns around originality, authenticity, and the protection of creative expression. Intellectual Property Rights (IPR)—a legal framework that protects intangible creations such as designs, inventions, artistic expressions, and brand identity from unauthorised use. This paper explores the meaning and significance of fast fashion, while examining the tools of IPR, including trademark, copyright, patents, the Designs Act, and geographical indications, within the Indian legal context. By analysing landmark cases such as *Christian Louboutin v. Pawan Kumar & Ors.* and *Ritika v. Biba*, it demonstrates how courts interpret and enforce IPR in fashion-related disputes. The study further identifies the challenges in implementing IPR effectively in the fast fashion sector and proposes suggestions to strengthen the Indian framework. Ultimately, the paper argues that robust IPR protection is essential not only to safeguard designers and encourage innovation but also to ensure that the fast fashion industry evolves sustainably and responsibly in a globalized economy.

**Keywords:** Fast fashion, Clothing industry, Trends, Intellectual Property Rights (IPR), Trademark, Copyright, Designs Act, Landmark cases.

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<sup>1</sup> 3rd Year Student, Bharati Vidyapeeth New Law College, Pune.

## INTRODUCTION

“Fashion is the most powerful art there is. It’s movement, design, and architecture all in one. It shows the world who we are and who we’d like to be.”<sup>2</sup>

This famous quote reflects fashion as more than mere attire; it portrays it as a visual language — a vibrant and layered expression of creativity, individuality, and aspiration.

In the recent years, the rise of fast fashion has reshaped the fashion industry, making it possible for brands to deliver runway inspired trends and have them available in retail stores within a short time. However, these brands often while taking inspiration from luxuries fashion houses, replicate their design without authorisation, undermining originality thus leading to fashion design piracy<sup>3</sup> and Intellectual Property violations.

Intellectual Property Rights (IPR) refer to the legal protections designed to protect original ideas and intangible creations of creators — such as inventions, artistic works, symbols, designs, and brand names<sup>4</sup>.

Intellectual Property Rights serves not only as a legal framework but as an ethical and economic shield. It safeguards creativity , fostering innovation, maintaining fair market and preventing exploitation of original work. This umbrella of protection encompasses wide spectrum of fashion elements, including clothing, footwear, jewellery, and accessories.

## UNDERSTANDING FAST FASHION

“Fast fashion” is a significant sector of the fashion industry that produces clothes based on the latest trends in a short time frame at minimal cost. As a consumer-based industry, it prioritizes

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<sup>2</sup>Damien Darko, *Gossip Girl* (Season 4: Episode 12) (Warner Bros. Television 2011) (Leighton Marissa Meester , as Blair Waldorf, speaking the line).

<sup>3</sup> Fashion design piracy in short means copying or imitating a designer’s original creations without permission and selling them as new, often at lower prices.

<sup>4</sup> YusufShahab786, *Intellectual Property Rights (IPR) in India: A Comprehensive Overview*, *Legal Service India*, <https://www.legalserviceindia.com/legal/article-16785-intellectual-property-rights-ipr-in-india-a-comprehensive-overview.html>.

speed, volume and affordability. It imitates and brings runway designs, celebrity outfits, and viral pop culture trend into affordable garments for the mass market.

Global Brands such as Zara, H&M, Shein, Forever21 along with Indian retailers like Pantaloons, Westside, and Max Fashion are some of the prominent examples of fast fashion brands which produces affordable, trend-driven clothing and introduces fresh collections frequently within weeks to keep pace with the ever-changing fashion trends.

The boom of fast fashion market is ongoing and is expanding. According to study by Coherent MI, the Unites States market, is expected to grow significantly from \$41.15 billion in 2023 to \$59.85 billion by 2030<sup>5</sup>. These figures indicate the continuing success of fast fashion, expecting an increase amount of clothing to flood resale markets worldwide.

## **KNOCKOFFS V COUNTERFEITS**

**Knockoffs** are products that imitate the look of original designs but are sold under a different brand name, usually at a much lower price. While often considered legal, they may cross into infringement if the resemblance is so strong that it misleads consumers. Popular fast fashion retailers such as Zara or Forever 21 are frequently associated with this practice.

**Counterfeits**, on the other hand, are direct copies made to look identical to the original item, often bearing the same logos or trademarks. Unlike knockoffs, counterfeiting is strictly illegal as it deliberately misuses the brand's identity. Luxury houses like Chanel, Gucci, and Cartier have successfully pursued high-value lawsuits against counterfeit producers<sup>6</sup>.

## **SIGNIFICANCE**

Fast fashion operates in a grey area of IPR, blurring the boundary between inspiration and outright imitation, violating intellectual property rights as it allows brands to capitalise on the creative work of others before any legal action can be taken.

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<sup>5</sup> Alyssa Hardy, *Everything You Need to Know About Fast Fashion*, VOGUE (Apr. 24, 2024), <https://www.vogue.com/article/what-is-fast-fashion>.

<sup>6</sup> Yosha Dubey, *The Role of IPR in Fashion Industry*, 10 Int'l J. for Research in Applied Sci. & Eng'g Tech. 1554 (Jan. 2022), <https://doi.org/10.22214/ijraset.2022.40117>.

Here, IPR comes into play to ensure originality and a fair competitive marketplace.

## **PROTECTION ORIGINAL CREATIVITY**

Niche designers and luxury labels invest heavily in time and resources in experimenting with different trends, concepts and expressions to bring about creative visions into reality. They spend similar enough in brand building and establishing their identity.

When fast fashion brands clone these ideas at lightning speed, it dilutes the originality of the work and challenges the creators to stay relevant.

Take the case of Sabyasachi dropping a unique bridal lehenga and a cheap replica pops up in local markets like in Chandni chowk or in fast fashion stores

## **FOSTER INNOVATION**

Fashion brands and creators when assured that their work would be protected from unauthorized replication, they are more encouraged to experiment with different concepts and develop innovative creations.

## **CONSUMER TRUST & BRAND VALUE**

IPR safeguards help customers differentiate between authentic products and cheap imitations.

It helps brands to preserve their image and reputation as fashion enthusiasts and consumers seek exclusivity and unique designs.

The rapid growth of the fashion industry has prompted the need for robust IP rights.

## **KEY INTELLECTUAL PROPERTY TOOLS USED IN FASHION INDUSTRY**

Creators of intellectual property are given exclusive rights to ensure that their work cannot be used by others without consent. These rights generally include right to:

- Reproduce

- Sell
- And, create other forms of such work, etc<sup>7</sup>.

Intellectual Property Rights is a broad area. It provides legal protections to many types of intellectual creations, such as copyright for literary and artistic work, patents for new inventions, trademarks for brand names, logos and trade secrets for confidential business information.

Primary IP tools relevant to the fashion industry are-

## **COPYRIGHT**

Copyright means a legal right to copy. Copyright is an intellectual property right given to authors and creators to protect their original artistic works- such as written works, visual art, songs, performances, computer programs, and cinematography. It grants them exclusive control over their works and prohibits unauthorised use, reproduction, distribution, and exploitation. In India, copyright protection usually remains valid for the author's lifetime plus 60 years after their death, and for films, music or photographs. The Burberry Check Pattern is a well-known example of a copyrighted textile design in the fashion industry.

## **TRADEMARK**

A trademark is a unique mark or sign that represents and distinguishes a brand or products of a business from those of others. It could be a logo, sign, symbol, word or a name. It avoids or discards the confusion of having identical mark. For example, LV monogram of Louis Vuitton or the interlocking C's of Chanel.

## **PATENT**

Patents safeguard inventions that are new, inventive. They give creators exclusive rights to use, produce, or sell their innovation, restricting others from doing so without permission. This protection typically lasts for 20 years from the date of filing.

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<sup>7</sup> GeeksforGeeks, *Importance and Types of Intellectual Property Rights (IPR)*, <https://www.geeksforgeeks.org/business-studies/importance-and-types-of-intellectual-property-rights-ipr/> (last visited Sept. 19, 2025).

## **GEOGRAPHICAL INDICATIONS (GIS)**

A geographical indication is used to identify and distinguish products that originate from a specific geographical area and possess qualities or a reputation due to that origin.

In fashion, this mainly applies to traditional textiles and crafts like Banarasi saree (Varanasi), and Chanderi fabric (Madhya Pradesh) are GI-tagged for their regional textile heritage.

## **DESIGN**

Design essentially refers to the visual appearance or aesthetic aspects of a product, such as its shape, pattern, configuration, or ornamentation. Since fashion thrives on design, protecting those designs becomes all the more important.

A famous example of registered design protection is the signature red sole of Christian Louboutin's shoes.

## **INDIAN LEGAL FRAMEWORK**

In India, fashion designs are safeguarded under the Intellectual Property Rights framework through four key legislations: the Designs Act, 2000, the Copyright Act, 1957, the Trademarks Act, 1999, and the Geographical Indications of Goods Act, 1999.

However, within the context of the fashion industry, these laws do not extend protection to an entire garment in its complete form. Instead, they safeguard specific elements of the design—such as the garment's shape, pattern, colour scheme, or other distinctive features.

## **COPYRIGHT ACT, 1957**

The Copyright Act, 1957 is the primary legislation in India that governs the rights of creators over their original literary, artistic, musical, and dramatic works.

Section 14 defines the scope of the term “copyright” by listing the exclusive rights granted to the creator or copyright holder. These include the right to reproduce the work, issue copies to the

public, perform the work in public, communicate it to the public, adapt it, and translate it, among others<sup>8</sup>.

Section 13 of the Copyright Act, 1957 grants protection to original works such as literary, dramatic, musical, and artistic creations, along with films and sound recordings. It covers the expression of ideas, not the ideas themselves<sup>9</sup>.

In the realm of fashion, the Copyright Act protects:

- Sketches and illustrations of garments
- Textile prints and embroidery designs
- Fashion catalogues, lookbooks, and advertisements
- Logos and graphic artwork (until registered as trademarks)<sup>10</sup>.

However, the protection is limited to the artistic expression and not the garment itself.

## TRADEMARK ACT OF 1999

Trademark act of 1999 governs trademark in India. Prominent fashion labels such as Louis Vuitton, and Hermès rely on their unique brand identifiers to maintain visibility and distinction amid intense industry competition.

Section 2(zb) of the Trade Marks Act, 1999<sup>11</sup> defines trademark as “*trademark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging and combination of colours.*” It includes the shape of goods, their packaging, and combinations of *colours*.

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<sup>8</sup> Copyright Act, No. 14 of 1957, § 14, INDIA CODE (1957).

<sup>9</sup> Ibid. § 13.

<sup>10</sup> Apurva Neel, *Fashion Law and Copyright in India: Legal Insights*, LEGAL BITES (Oct. 17, 2024), <https://www.legalbites.in/fashion-law/fashion-law-and-copyright-in-india-legal-insights-1071657>.

<sup>11</sup> Trade Marks Act, No. 47 of 1999, § 2(zb), INDIA CODE (1999).



The law permits individuals, businesses, and other legal bodies to apply for trademark registration, giving them the sole right to use that particular mark. It protects brands from fraudulent and unfair practices.

Section 25 of the act states that once registered, a trademark remains valid for a period of ten years. This protection can be preserved indefinitely by renewing it every ten years in accordance with the act<sup>12</sup>.

In order to apply for a trademark registration, an individual must adhere to the procedure prescribed under section 18 of the Trademark Act, 1999.

## **THE PATENT ACT, 1970**

Patent protection in India is governed by the Patents Act, 1970 and promotes innovation<sup>13</sup>. The Act was brought into effect in 1972.

The act outlines eligibility, procedure to apply for one, its enforcement mechanisms and remedies for violations.

According to Section 2(1)(m) of this Act, a patent is a statutory right conferred by the Indian government to an inventor or applicant, granting them the legal authority to exclude others from making, using, selling, or importing the patented product or process for producing without inventor consent<sup>14</sup>.

A patent remains valid for 20 years from its filling date. Its renewal is required annually to keep it active and once the term expires, the invention enters the public domain.

Section 29(1)(J) of the act defines an invention as a new and useful product or process that includes an inventive step and industrial use<sup>15</sup>.

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<sup>12</sup> Ibid. § 25.

<sup>13</sup> Khushi Malviya, *A Comprehensive Guide to Patents in India*, Lawctopus (June 19, 2025), <https://lawctopus.com/clatalogue/clat-pg/a-comprehensive-guide-to-patents-in-india/>.

<sup>14</sup> Jonus Isaac D'Souza, *Rights, Obligations and Limitations of a Patentee*, Legal Service India, <https://www.legalserviceindia.com/legal/article-13726-rights-obligations-and-limitations-of-a-patentee.html> (last visited Oct. 13, 2025).

<sup>15</sup> Patents Act, No. 39 of 1970, §§ 2(1)(m), 25 (India).

An invention must be:

1. Novel- the invention must be original, not previously known or made public in any form.
2. Inventive step- it must possess a creative, technical or inventive concept.
3. Industrial applicability- it should have practical utility and capability to be used or applied in industry or within any technological area.

## DESIGN ACT, 2000

The design act, 2000 replaced the earlier designs act of 1911 to modernize the legal framework relating to protection of industrial designs in India. It came into effect on May 11, 2001.

Design act, 2000 protects designs that are novel, original and not similar to any previously produced design. Its protection does not cover designs that are similar to any previously produced designs, designs without any artistic elements and that is immoral, unethical or indecent.

The case of *Bharat Glass Tube Ltd. v. Gopal Gas Works*<sup>16</sup> clearly outlines the object and intent of the Designs Act.

Section 2(d) of Design Act, 2000 has defined design as *“only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device”*<sup>17</sup>.

Protection is only given to registered designs. The design under this act is protected for 10 years and can be renewed for an additional 5 years, that is 15 years of protection in total.

In fashion industry, fashion designers register their original and unique designs under this Act to prevent unauthorized copying or imitation by fast fashion labels or counterfeiters.

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<sup>16</sup> *Bharat Glass Tube Ltd. v. Gopal Glass Works Ltd.*, (2008) 10 SCC 657 (India).

<sup>17</sup> Designs Act, No. 16 of 2000, § 2(d) (India).

## CASE STUDIES

### PUMA V. FOREVER 21<sup>18</sup>

In this case Puma, a clothing brand filed a case against a fast-fashion brand, forever 21 claiming that the latter has copied the design of special edition shoes from it Fenty collection. this collection included creeper sneakers, fur slide and bow slide which were personally designed by famous musician Rihanna Fenty in partnership. Forever 21 argued that the designs were not novel, distinctive enough, and thus, not eligible for protection.

The court held that although puma publicly credited Rihanna for designing the collection however she wasn't listed in puma's copyright filings or design patent filings. The case was eventually settled out of court.

In **Ritika Private Limited v. Biba Apparels Private Limited**<sup>19</sup>, the dispute arose when BIBA was accused of reproducing designs that were originally created by Ritu Kumar's fashion house. this imitation resulted in financial losses for Kumar, yet BIBA escaped legal consequences by invoking Section 15(2) of the copyright Act. under this section, any design which is capable of registration under design legislation is reproduced beyond fifty times without registration, loses it copyright protection.

In the case of **Christian Louboutin v. Pawan Kumar & Ors**<sup>20</sup>, the renowned French luxury label Christian Louboutin, recognized worldwide for its signature red-soled shoes, filed a suit against Pawan Kumar and others for selling footwear bearing same red soles, thereby violating its registered trademark. the court. the court decided in Louboutin's Favor and officially acknowledged the red sole to be a widely recognized trademark.

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<sup>18</sup> Fashion Law Journal, *Puma vs. Forever 21 (2017): Case Analysis*, FASHION LAW JOURNAL (July 5, 2024), <https://fashionlawjournal.com/puma-vs-forever-21-2017-case-analysis/>.

<sup>19</sup> *Ritika Private Ltd. v. Biba Apparels Pvt. Ltd.*, (2016) SCC OnLine Del 1979.

<sup>20</sup> *Christian Louboutin SAS v. Pawan Kumar & Ors.*, (2017) SCC OnLine Del 1234.

## **CHALLENGES IN ENFORCING OF IP LAWS IN FAST FASHION INDUSTRY**

1. Fast fashion industry can replicate designs in a matter of days and by the time legal action is initiated, the knock-offs are already flooded in the market, limiting the impact of enforcement.
2. Litigation often involves high cost and lengthy process which discourages many independent designers from taking action against large fast fashion companies.
3. As many designs draw from common trends and styles, establishing originality and distinguishing between inspiration and unauthorized copying can be challenging.
4. Small or emerging designers often have limited knowledge about intellectual property rights and may not have financial or legal resources to access it, making enforcement difficult.
5. The counterfeit fashion market is thriving mainly because of weak enforcement of laws and lack of consumer awareness of legal consequences and risks of purchasing counterfeit products.
6. Most consumers in the fast fashion industry often prioritize affordability and trendiness over the authenticity and originality of designs. Consumers lack of awareness of intellectual property rights diminishes accountability, indirectly allowing design infringement.

## **SUGGESTIONS**

1. To address the growing challenges and to bridge the gap between IPR enforcement and realities of fast fashion industry, a comprehensive approach is essential both at the industry and policy level.
2. firstly, legal framework should be strengthened to introduce clearer guidelines that differentiate between inspiration and infringement.
3. faster dispute resolution mechanisms to be adapted since fashion trends change rapidly.
4. awareness programs should be initiated to educate small and emerging designers about the IPR protection through registration and its process. government support to be granted in the form of subsidies and reduced filing costs to encourage small designers.

## CONCLUSION

Fast fashion industry is constantly evolving and undeniably has changed up the fashion game - making the latest trends cheap and easy to find. But there's a downside to this convenience: a growing disregard for intellectual property and a decline in original designs.

Such challenges can be resolved by registration of the innovation or creation under the appropriate IPR framework, thereby conferring exclusive ownership and safeguard against exploitation of original ideas or unauthorized use.

The current IPR framework is facing increasing challenges by design piracy and imitation intensified by rise of digital media and rapid pace of fashion cycle. To ensure stronger protection of designs against unauthorized duplication or reproductions, the protracted registration procedure of the existing system needs to be simplified and made more efficient to ensure that the legal safeguards remain aligned with the fast-paced and ever-changing dynamics of fast fashion industry. The fashion industry requires a more flexible and fashion oriented legal approach. Moreover, integrating awareness about the IPR into the education system is essential to equip young minds to recognize its value and harness the benefits from these rights effectively in the future.