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A Fashion Phenomenon

How Lack of Intellectual Property Rights Impedes Innovation in the Fashion Industry

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CERTIFICATE OF APPROVAL

Honors Thesis

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Abstract

Fashion encompasses nearly every aspect of a person's life from birth through death. Throughout history, fashion has evolved alongside mankind in a plethora of ways. Although many view the fashion industry as vain and materialistic, fashion has played many different roles throughout history. Fashion has been used as a status symbol of one's wealth, as a source of protection during war, and a form of political protest, among other things. The fashion industry is a booming trillion dollar industry that is continuing to grow every year. Unfortunately, due to a lack of Intellectual Property Law rights and a standardization of these laws, fashion designers and their brands are subject to counterfeit goods and stolen designs. This thesis will analyze Intellectual Property Laws, specifically Trademarks, Copyrights, and Patents related to fashion design. This thesis will also address how gaps in these laws, as well as general difficulties with obtaining intellectual property protections, creates a lack of innovation within the fashion industry. This thesis will also discuss that, due to this lack of protection, there is not just undue burden placed on the fashion designer, but an enormous negative impact to countries' economies as well as consumers. This thesis will tie together the relatively new field of Fashion Law, with Intellectual Property Law, and show that the intersection of these two fields of law will only grow more closely together, meaning more and more issues of counterfeited goods will continue to become a growing problem, as the fashion industry continues to expand and evolve. If Intellectual Property Law protections do not quickly catch up with Fashion Law and the

fashion industry, this will have an enormous negative effect on innovation within the industry and the economy.

Introduction:

“Fashion is part of the daily air and it changes all the time, with all the events. You can even see the approaching of a revolution in clothes. You can see and feel everything in clothes.” —Diana Vreeland, former editor of Vogue magazine

Fashion is often viewed as frivolous and avaricious, as being only for those members in the upper echelons of society. Fashion, however, is anything but this. Fashion encompasses everything from the clothes we wear, to how society at a specific time period views beauty and convention. Fashion is a trillion dollar industry that, whether we like to admit or not, affects every single person. One might expect for being such a broad topic and enormous industry, there would be numerous laws governing and protecting fashion. Unfortunately, this is not the case. Laws governing protections for fashion designs are limited, and Intellectual Property Laws such as Trademarks, Copyrights, and Patents cannot always be applied to all designs or pieces. The purpose of this thesis is to show how a lack of protection, particularly Intellectual Property Law and fashion Law protection, is severely limiting the production of new innovations within the industry, as well as the financial burden this places on fashion brands.

Throughout history there have been laws governing who can wear certain types of clothes, as well as laws governing trade, however Fashion Law is a relatively new and fast growing section of legal studies. Fashion Law is deeply intertwined with Intellectual Property Law. Intellectual Property Law deals with the “legal rights to creative works and inventions” and the protection of these works through Copyright,

Trademarks, trade secret, and patent protections. Although some forms of work, such as a book or a new scientific invention, are easily protected under Intellectual Property Laws, these laws have not caught up to the changes occurring within the fashion industry. This means many parts of fashion, are not afforded these same protections. In addition, Intellectual Property Laws differ from country to country making it challenging for one country to enforce laws against another jurisdiction.

History of Fashion Law:

As mankind has evolved through history, fashion has also evolved, reflecting changes in social status, culture, and societal norms. Intellectual Property Laws have not managed to keep up with the evolution of fashion. Lack of intellectual property protections in the fashion industry leads to two major problems: counterfeit items and imitation designs. Counterfeit goods are “unauthorized close copies of labels, or other distinctive markings for sale” (Grochala, 2014). While designers can attempt to bring about damages against a counterfeit item, assuming they have all the necessary intellectual property protections, they cannot do the same against retailers who create “imitation designs that do NOT include the label or other types of design signature” (Grochala, 2014).

Although there have been laws throughout history governing what people can wear and trade routes, Fashion Law was not pioneered until 2010, when Professor Susan Scafidi, along with help from Diane Von Furstenberg of the DVF Fashion House, and the Council of Fashion Designers of America, opened the Fashion Law Institute, through Fordham Law University. The Fashion Law Institute is the world’s first academy dedicated to Fashion Law, and has actively worked to highlight the inadequacies of

protections for designers under Intellectual Property Laws, as well as push for better legislation as a solution to the issue. Professor Scafidi was one of the first law professors who advocated for the Fashion Law field, and, in 2006, testified before the House Judiciary Committee in favor of the Innovative Design Protection Act. In 2015, Professor Scafidi along with Diane Von Furstenberg launched the world's first master's degree in Fashion Law.

Proposed Legislation:

One of the first major moves towards legislation in the Fashion Industry through intellectual property was the Innovative Design Protection and Piracy Prevention Act (the "Act"). This Act was introduced in the House of Representatives in 2011. The purpose of this Act was a proposed amendment to "Title 17 of the United States Code in order to provide sui generis protection to fashion designs under the Copyright Act" (The Fashion Law, 2016). These protections would have applied to "the appearance as a whole of an article of apparel, including its ornamentation," with "apparel" defined to include "men's, women's, or children's clothing, including undergarments, outerwear, gloves, footwear, and headgear;" "handbags, purses, and tote bags;" belts, and eyeglass frames" (The Fashion Law, 2016), so long as the fashion designer registered with the United States Trademark and Patent Office (USPTO) within 3 months of publicizing the design.

Although the Act would have been the first major piece of legislation to protect fashion designs, it did not come without criticism. Its critics pointed out how hypocritical it was of Diane Von Furstenberg to push legislation giving more intellectual property rights to designers, when she was accused by a smaller designer of stealing multiple

designs. Critics also argued that the Act would be more harmful than helpful to independent fashion designers. Critics of the bill argued that smaller, independent fashion designers would not be able to fund litigation against larger companies if charged with infringement. Critics also argued that originality in fashion design was not substantial enough for Intellectual Property Laws, specifically Copyright laws, to distinguish elements of the design, giving large fashion houses too much power over the industry.

Current Laws:

Currently, laws governing fashion are not strong or specific enough to properly protect Fashion Designers. In intellectual Property, the three main ways an inventor or creator can protect (USPTO, 2018) their good or service, is through Trademark, or patent protections through the USPTO or Copyright protections through the United States Copyright Office (USCO). A Trademark protects a brand name or identity, and can “include any word, name, symbol, device, or any combination, used or intended to be used to identify and distinguish the goods/services of one seller or provider from those of others, and to indicate the source of the goods/services” (USPTO, 2018). In contrast to this, a patent usually protects an actual invention, and can be in the form of a design, utility, or plant patent. Fashion can be protected through a design patent as long as the ornamental design is new, original and non-obvious. The third way a design can be protected is through a Copyright so long as its shape qualifies as creative sculpture, or if the design on the clothing qualifies as graphic or pictorial.

It can be difficult for a design to fit the qualifications for protections under Trademark, Copyright, or Patent. The process for all three can be long and expensive,

which many new or smaller fashion designers may not be able to afford. Between government and attorney fees, a designer or brand can easily spend at, the minimum, a few hundred dollars trying to receive some sort of intellectual property protection for their designs. Although a designer can file for a Trademark, Copyright, or patent on their own, it is not recommended due to the complexities of each type of protection. With governmental fees and attorney fees, a designer can spend upwards of ten thousand dollars filing a patent application, and hundreds to thousands of dollars filing Copyright and Trademark applications. The pricing changes depending on the attorney's hourly rate, as well as the amount of applications being filed, but, regardless of this, it can still be an extremely costly project.

Trademarks

Fashion designers can only protect elements of their designs if they have a Trademark that is in use, and not just if their design is used by a different label. In addition, the Trademark process is long, usually taking about a year and a half to two years to fully complete. Not only is it an arduous process obtaining a Trademark, but, there is a good chance at receiving a likelihood of confusion. During the Trademark process, the USPTO assigns an examiner to the case. During his or her research, if the examiner sees that there is anything about the mark that could cause confusion with an existing mark to the lay consumer, they give a likelihood of confusion. Even with extensive research, which can cost upwards of \$750 through an experienced lawyer, receiving a likelihood of confusion is very common.

Although the process for getting a Trademark can be expensive and long, it is one of the only means a designer can use to protect their designs and sue for damages

when these designs are infringed on. Under the Lanham Act, a designer is authorized “claims for trade dress infringement, false designation of origin, false advertising, and dilution” (Grochala, 2014). Fashion designer with trade dress protections for their design must still “establish the trade dress’s non-functionality and source identifying role either through inherent distinctiveness or secondary meaning; and a likelihood of consumers confusing the defendant’s product with the claimants” (Grochala, 2014). While this in itself can be difficult enough for a designer, in the United States Supreme Court case *Wal-Mart Stores v. Samara Bros Inc.*, the court held that “a product design cannot be held distinctive, however product packaging can” (Grochala, 2014). This puts a burden on designers to establish a secondary meaning “that consumers come to associate with the designer” (Grochala, 2014).

Design Patents

Design Patents also do a poor job at offering any protection for designers. To be patentable, the design must be ornamental and new, original and non-obvious. A design patent lasts for fourteen years, and protects the design, or any designs that are too similar, from being used, sold, or manufactured by anyone else. If there was embroidery on an article of clothing, “the embroidery would be primarily ornamental” (Grochala, 2014), but its overall configuration would also have to be taken into account. Because of this, the article of clothing would not be protectable under a design patent. In addition to this, even if a designer were to try and obtain a design patent, it would most likely be a one to three years process, but can be as long five years. After waiting all this time and spending government fees in addition to attorney fees, a person can still have their patent application denied at the end of the process.

Copyrights

In addition to Trademarks and design Patents, designs can be protected by Copyright. Copyrights do not apply to utilitarian things such as purses, “because one cannot sever the unique design features from their functionality” (Hutchens, 2010). A fashion designer, even the most famous one, cannot design a pink jacket and prove its originality to the point of being granted a Copyright. Additionally, Copyrights do not include items considered useful and clothes are useful articles according to the USPTO.

Receiving any sort of protection under Intellectual Property Laws for fashion designers can be an arduous and costly process. Although a designer can receive Trademark protections, such as Louboutin’s red soled heels in the United States, this requires a great deal of time, because there must be acquired distinctiveness. Another issue with Intellectual Property Laws, is that they are not uniform across all countries. For example, the red soled Louboutin heels are protected by Trademark in the United States, but not in the European Union. Protection in one country does not guarantee protections in another.

Public Policy Implications:

If a designer is able to receive protection, once they have been granted the protection the real challenge begins. Even if a designer has taken all the measures to protect their designs that does not mean other companies or designers will not create counterfeit goods. The Merriam Webster Dictionary definition of counterfeit is something “made in imitation of something else with intent to deceive” (Merriam Webster, 2018). This is different from a knockoff which is an imitation of good that is not protected by any Trademark, Copyright, or design patent protections. According to the Organization

for Economic Cooperation and Development, and the European Union's Intellectual Property Office, the importing of counterfeit goods is worth almost half a trillion dollars annually. That is equivalent to 2.5% of all global imports. Worldwide, the counterfeit industry makes about \$461 billion, as much as 5% of imports into the European Union being counterfeit goods. Among some of the most counterfeited items are footwear and purses. Not only does this affect the fashion designers, but counterfeit goods cost 2.5 million jobs worldwide in 2014, with 700,000 of those jobs being in the United States. This is an enormous blow to economies around the world.

An example of a high profile case involving counterfeit goods, is the lawsuit Burberry, a luxury fashion house in Britain, brought against Target. Burberry alleged that Target was infringing on their famous check pattern that Burberry has used since the 1920's. This case is especially interesting since Burberry brought a cease and desist against Target in 2017 telling them to cease all production of the similar line. Although Burberry's iconic cashmere scarf sells for \$450 and Target's version sells for around \$12, the designs between the two lines were virtually indistinguishable, especially to the lay consumer. Burberry is now seeking \$2 million per Trademark violation along with damages. This is just one of many examples of counterfeit battles between large companies. Forever 21, a popular fashion chain among teenagers and young adults, is currently in a lawsuit with Gucci, who claims the store ripped off one of their iconic blue, green, and red stripe designs.

Two of the biggest places counterfeit goods come from are China and online companies. Apple had workers scour Amazon for Apple products. Apple alleged that "items sold via Amazon's fulfillment scheme, whereby third parties list their goods on the

retail giants site” were counterfeit, and could be potentially life threatening. Although Apple did not go after Amazon, they did bring litigation against one of the vendors. As previously pointed out in this paper, Intellectual Property Laws change from country to country. This is just one more example of how Intellectual Property Laws do not do enough to protect fashion designers and their products.

Currently, The European Union and the United States are affected by the counterfeit industry more than anywhere else. Although the European Union has more stringent laws protecting fashion designers products, counterfeit products is still an enormous issue. Copyright protections in the European Union date back to the 18th century, and were originally to protect linen and cotton designs in the United Kingdom.

The first Copyright law was the Designing and Printing of Linen Act in 1787 “which provided limited protection to those designing and printing linens, cottons, calicos, and muslin” (Elavia, 2014). Since then laws governing intellectual property in the European Union has greatly evolved. The current law used by the European Union is the Copyright, Designs, and Patent Act of 1988. During this same year the European Directive on Legal Protection of Designs was also passed. These laws give fashion designers the “exclusive rights to use their designs in commerce, to enforce those rights against infringers, and to claim damages” (Elavia, 2014), with a design being defined as “the appearance of a whole or a part of a product resulting from the features of, in particular the lines, contours, colors, shape, texture, and/or materials of the product itself and/or its ornamentation” (Elavia, 2014).

Even with these laws in place, the European Union is still not safe from counterfeit goods. If Intellectual Property Laws were stronger and more standardized

this might not be an issue for the European Union or the United States. Countries like China who have for the most part have relatively weak Intellectual Property Laws, and little enforcement of them historically, have trampled over the rights of fashion designers in other countries. China is one of the largest contributors to the counterfeit industry, and has been able to get away with an incredible amount in respects to counterfeiting. China is such a large country that it is hard to enforce any Intellectual Property Laws. It does not help that there is also a lack of education on Intellectual Property Laws. In 2014, the Office of the United States Trade Representative put China back on the watch list for intellectual property violations.

Counterfeit products do not just affect fashion designers and their brands, but overall economies of countries as well. Companies trying to compete with counterfeit Chinese goods have to lower prices, as well as spend millions of dollars annually fighting litigation cases. This is on top of the money they lose from consumers paying for counterfeit goods over the real product. Out of 50 countries that the United States Chamber of Commerce International IP Index, China ranked as number 25 when it came to its “commitment to fostering and protecting innovation through legal rights” (Clark, 2018).

Recently, China had taken tougher stances when it comes to violations of intellectual property rights. China’s president Xi Jinping called for stricter enforcements, leading the country to announce new and serious measures for infringers. The issue with this is for there to be any significant change due to these new laws, the laws actually have to be enforced, which China does not have a strong history of doing with Intellectual Property Laws. Although China has become more aware of its intellectual

property violations, the cases of intellectual property infringements from China have only increased.

Like China, online retailers have been huge suppliers of the counterfeit industry. When a person shops in person for a luxury item, for example a Gucci purse, aside from the price a person can usually tell if the good is authentic or a counterfeit based on the location they bought the bag. When someone is buying merchandise online it can be much harder to tell the difference between the authentic product and counterfeit versions of it. Vendors such as Amazon and Ebay have been accused by multiple companies of selling counterfeit and fake products to consumers, under the guise that it is the real thing. It can be tough for companies like Amazon and Ebay who often times are simply the conduit, and not the supplier or producer, between consumers and third party vendors. Both companies have been accused of not doing enough to stop counterfeit items from being sold on their websites.

One high profile case involving Ebay occurred in 2010 with designer jewelry company, Tiffany's. This case is a perfect example of how hard it can be for designers to stop infringers even if they have the proper intellectual property protections. Tiffany's asserted that Ebay had advertised its goods for sale through ads, which would then link the consumers to counterfeit websites. In this case, Tiffany's has multiple Trademarks and Copyrights, but were still unable to stop Ebay from continuing the sale of these products, because Tiffany's could not prove that Ebay had misled customers or tried to sell the products as authentic jewelry. Even with multiple Trademarks and Copyrights, along with very distinctive packaging and a well-known name, Tiffany's was unable to assert its right to protect itself from counterfeits.

Significant Cases:

Two examples of high profile cases involving online stores and fashion designers includes Hermès, a high end Italian luxury brand, who brought litigation against Italian leather company Da Milano. Hermès wanted Da Milano to stop selling handbags that resemble Hermès's most famous bag, the Birkin purse. Hermès brought a lawsuit against Da Milano claiming they were infringing on the "horizontal belt and flap having three protruding lobes" (Zerbo, 2018) which is a protected piece of the purse. Da Milano argued that the difference in price between Hermes bag and their bag, \$9,000 and \$146.79, respectively, would eliminate any chance of confusion among consumers. In this case Hermes was granted a preliminary injunction against Da Milano. Eventually after 3 more years of litigation, the companies settled out of court. Although Da Milano was allowed to continue making their handbags they were "prohibited from showing ornamental or decorative part of the plaintiff's handbag viz a horizontal belt and flap having three protruding lobes" (Zerbo, 2017). Another high profile case involving a designer's brand and an online counterfeiter was between Christian Louboutin and an Italian footwear brand. Louboutin claimed the online brand was infringing on their Trademark, by selling shoes that they claimed were authentic Louboutin's, even including the CHRISTIAN LOUBOUTIN word mark on their website. Louboutin argued that they "have an aura of luxury and prestige surrounding them differentiating them from other goods" (Zerbo, 2018).

If Intellectual Property Laws for fashion designers products were broader and standardized, lawsuits such as the two previously discussed could be avoided. In addition to being costly for designers and brands to fight against counterfeit companies,

their reputations can also be affected. Just as Louboutin stated in the quote above, the lay consumer may associate a counterfeit good with the real good, cheapening the overall value of a designer's brand. This can obviously hurt a designer's financial bottom line. Furthermore, consumers may be paying full price for a counterfeit good believing it to be the real thing. According to the associated press the counterfeit industry costs the United States about \$2 hundred to \$6 hundred billion a year.

When brands infringe on fashion designers products, it not only hurts the designer, economy, and possibly consumer financially, but also deeply impedes innovation within the fashion industry. If designers are spending millions of dollars fighting infringers, that is money that could have been allocated to creating new designs. For the larger luxury fashion houses spending a few million dollars a year may not destroy them, but for smaller fashion brands, which is the majority, allocating hundreds of thousands to millions of dollars litigating is not a viable option. These brands either have to allocate resources from other funds to fight infringers, go through the arduous process of trying to obtain some sort of intellectual property protection, which may still not be enough to deter all infringers, or simply give up. Fashion brands can sometimes avoid litigation by settling out of court, but even this requires attorney fees, on top of any fees agreed upon in the settlement agreement. This squeezes out smaller fashion brands and designers who may have grown into large and successful brands had they had the resources. In addition, this could also deter new fashion designers and brands coming into the industry due to financial stresses.

Conclusion:

It is unfortunate that Intellectual Property Laws do not do enough to protect designers and brands and their designs. Like the music industry, the fashion industry is especially vulnerable to counterfeits and infringers, but fashion is not afforded the same level of protection. According to Locke's Labor Theory "when a creator deliberately combines her mental efforts with language, images, techniques, or other ideas in the public domain, the resulting product should be identified as her intellectual property" (Li, 2012). The main issue when discussing intellectual property rights and fashion design, often comes down to one question: what is considered property? While some may argue that a piece of fashion, such as Louboutin's red bottom heels, do not have all the characteristics needed to be considered a piece of property, in reality it does. Like Locke asserted in his Labor Theory, designers put labor and often times hours of time into creating their designs. These designs are a combination of a designer's imagination, much like a song to a musician, and are, therefore, the property of that designer. Furthermore, many designs have become, to the lay consumer, synonymous with a specific brand or designer, such as Louboutin's "LV" pattern, or Burberry's plaid pattern.

Intellectual Property Laws have not evolved fast enough to keep up with the fast paced fashion industry, but more and more designers and brands are beginning to fight back more viciously against infringers. One notable move taken by luxury conglomerate LVMH, who owns Louis Vuitton as well as Christian Dior and more than 60 other luxury brands, has announced it will be launching a blockchain to track luxury goods, a bold move against counterfeiters. In addition, many larger companies have begun to send out more cease and desists to dissuade infringers. High end bag designer Monica

Botkier sent a cease and desist to Sears claiming one of the bags from the Kardashian Kollection was a direct knock off of one of hers. Sears quickly pulled the bags from its shelves. Although Sears pulled the bags from their shelves, that is not always the case. High end shoe designer Derek Lam sent a cease and desist order to Ivanka Trump Footwear for knocking off his “iconic” wedge sandal. The letter was not enough to dissuade the Ivanka Trump Footwear company from pulling its version of the wedge from its shelves, as the company responded it “had no intentions of meeting Mr. Lams demands” (Grochala, 2014) and asserted the design was not iconic.

Although Derek Lam was unsuccessful in getting Ivanka Trump Footwear to stop production of their wedge, it shows the trend of designers pursuing infringers. Although there is an increase in this trend, Intellectual Property Laws, ultimately, do not do enough to protect designers in the first place, or help them stop infringers or receive any sort of damages. A lack of innovation within Intellectual Property Laws, and grey areas that even federal courts have issues wading through, will ultimately cause lack of innovation within the fashion industry. Although this may seem like a mundane issue in the grand scale, in reality it is serious issue that will lead to lack of creativity and ingenuity in art and society, because as we all know “life imitates art far more than art imitates life” (Oscar Wilde, 1891).

Annotated Bibliography

“Apple Complains Amazon’s U.S. Site Is Selling Fake Products”, *The BBC News*, 20 Oct, 2016, <https://www.bbc.com/news/technology-37715531>.

This was an article from the BBC about the issues Apple has had with Amazon and third party vendors selling counterfeit apple products. This is an important article to my paper as I used it for an example of how online companies are now some of the biggest violators of intellectual property rights. I wanted to highlight a high profile case, such as this one between Apple and Amazon.

Clark, Grant. “What is Intellectual Property, and Does China Steal It?” *Bloomberg*, Bloomberg Company and Its Products, 7 Dec, 2014, <https://www.bloomberg.com/news/articles/2018-12-05/what-s-intellectual-property-and-does-china-steal-it-quicktake>.

This article is important to my paper as it focuses on the current relationship between China and the United States when it comes to intellectual property relations. My paper does have a section which focuses specifically on China, as they are notorious for their violations on intellectual property rights. This article discussed not only the current climate of intellectual property rights in China, but also discussed future issues and possible solutions to the problem.

“Counterfeit”, *Merriam-Webster*, 2018, <https://www.merriam-webster.com/dictionary/counterfeit>. I used the merriam-webster online dictionary to define the definition of counterfeit goods. This is important to my paper, as it is important for the reader to know what counterfeit goods entail, and the difference between counterfeit versus knock off products.

“Counterfeit Goods Costs The U.S. \$600 Billion Dollars a Year”, *Inc.com*, The Associated Press, 27 Feb, 2017, <https://www.inc.com/associated-press/counterfeiters-cost-600-billion-a-year.html>.

This article was important to my paper, as I used it to get some more statistics on counterfeit goods, and how they affect the financial side of things for fashion designers and economies. It is important for anyone reviewing my thesis to understand why it is that Intellectual Property Laws are so important for fashion designers, and outlining the economic impact that the counterfeiting industry has on designers as well as countries, helps to show the reader why stronger intellectual property rights are needed.

“Designer Christian Louboutin Goes to Court to Protect His Precious Red Soles”, *The Wharton School of the University of Pennsylvania*, 22 Feb, 2018. <http://kwhs.wharton.upenn.edu/2018/02/designer-christian-louboutin-goes-court-protect-precious-red-soles/>. I used this article as an example of a high profile case brought on by Louboutin in regards to the brand’s famous red sole shoes. This case is important to my thesis, as it revolves largely around intellectual property rights, specifically Trademarks and Copyrights, and what can or cannot be protected by them within the fashion industry.

Elavia, Serena. "How the Lack of Copyright Protections for Fashion Designs Affects Innovation in the Fashion Industry." *Trinity College Digital Repository*, Trinity College, 10 Apr. 2014, digitalrepository.trincoll.edu/cgi/viewcontent.cgi?referer=https://search.yahoo.com/&http_sredir=1&article=1370&context=theses. This citation came from Serena Elavia's senior thesis at Trinity College. The thesis discussed lack of Copyright protections for fashion designers and how it harmed the fashion industry. This source is very important to my thesis where I discuss problems with intellectual property rights, specifically Copyrights, and difficulties with obtaining them.

"Global Trade in Fake Goods worth nearly half a trillion dollars a year", *Organization For Economic Cooperation and Development*, 2018, <http://www.oecd.org/industry/global-trade-in-fake-goods-worth-nearly-half-a-trillion-dollars-a-year.htm>.

This article came out of a study done by the OECD and the European Union Intellectual Property Office. This article was important to my paper because it outlined just how much in monetary assets the counterfeit industry costs annually. The article also outlined other statistics, such as the percent of important worldwide that are counterfeit products.

Grochala, Kelly. "Intellectual Property Law: Failing the Fashion Industry & Why The Innovative Design Protection Act Should be Passed." *Seton Hall University eRepository*, 2014, https://scholarship.shu.edu/student_scholarship/133/. This citation came from Ms. Grochala's Paper on how Intellectual Property is failing the fashion industry. This article was helpful in pointing out the grey areas that Intellectual Property Law has yet to fully cover. It also showed that Intellectual Property Law is not fast paced enough to keep up with the fashion industry.

Hanbury, Mary. "Target is being sued by Burberry, and it reveals one of the biggest problems facing the clothing industry", *Business Insider*, 9 May, 2018. <https://www.businessinsider.com/target-sued-by-burberry-reveals-big-problem-fashion-2018-5>.

This article was important to my paper as I used the case it discusses (Burberry V Target) as an example of a high profile counterfeit case. This also tied into the section of my paper where I discussed Copyright and how hard it is to obtain one for a fashion design, which this article touches on, as a reason Burberry had such a difficult time stopping Target.

"H.R. 2511, Innovative Design Protection and Piracy Protection Act" *Congress.gov*, 13 July, 2011, <https://www.congress.gov/bill/112th-congress/house-bill/2511?q=H.R.2511%20>

I used this government website Congress.gov to get more substantive information regarding H.R. 2511, which was introduced in the House in 2011. This is important to my paper, as a good amount of it focuses on current intellectual property protections for fashion designs, as well as past and pending attempts at expanding these protections.

Hutchens, Beth. "Don't Copy My Blue Suede Shoes: Copyright Protection for Fashion Designs", *The IP Watch Dog*, 23 Sep, 2020,

<https://www.ipwatchdog.com/2010/09/23/Copyright-protection-for-fashion/id=12602/>

This website is a very well-known and respected intellectual property blog. This article focused primarily on Copyright protections for fashion designs, particularly the difficulty for designers to obtain these protections. This is important to my paper as I discuss not only where Intellectual Property Laws fail to protect fashion designers, but also the difficulty with even receiving these protections in the first place.

Stempel, Jonathan. "eBay Defeats Tiffany in Counterfeit Jewelry Suit", *Thomson Reuters*, 13 Sep, 2010. <https://www.reuters.com/article/us-ebay-tiffany-idUSTRE68C4PQ20100913>

This was another high profile case involving counterfeit goods, specifically in regards to Trademarks and Copyright protections. This is an important case to my thesis, as it is a perfect example of how Intellectual Property Laws do not necessarily protect a fashion designer or their company, even after they have taken all the necessary precautions.

"Three Types of Patents Issued In the United States" *Jackson White Attorneys at Law*, Jackson White IP Law, 2012, <https://www.jacksonwhitelaw.com/ip/three-types-of-Patents-issued-united-states/>

This website is a well-known Intellectual Property Law firm's site. I used this site for my paper to explain the types of Patents someone in the United States can get, as well as the difference between these types.

"Trademarks Basics" *United States Patent and Trademarks Office (USPTO)*, 16 Feb, 2018, <https://www.uspto.gov/Trademarkss-getting-started/Trademarks-basics>

I used the USPTO's official website to get more information on the Trademarks, Copyright, and patent processes. This included how long and costly each process is, as well as qualifications to receive each type of protection, and what exactly each process can protect.

Watson, Patrick. "Counterfeit Products Hurt the Consumer and the Economy", *Forbes*, Mauldin Economics, 13 Nov, 2016,

<https://www.forbes.com/sites/patrickwwatson/2016/11/13/counterfeit-products-hurt-the-consumer-and-the-economy/#4a02847d3a7c>.

In addition to pointing out how lack of intellectual property rights and standardization of the ones currently in play, my paper pointed out how counterfeit goods hurt not only the fashion designer, but consumers and the economy as well. This article did an excellent job at outlining some of these negative effects to consumers and the economy, which I tied back in with the effects on fashion designers and the fashion industry.

"What Is Intellectual Property?" *Legal Career Path*, 2018,

<http://legalcareerpath.com/intellectual-property-law/>. This citation came off of the Legal Career Path's website, and is very important to my paper. I used this website to be able to accurately describe what intellectual property entails. I also used it to definitions on

Copyright, Trademarks, and Patents, and information on international intellectual property practices.

Zerbo, Julie. "Copyright Legislation for Fashion Designs (Proposed)." *The Fashion Law*, The Fashion Law: An Independent Source For Law, Business, and Culture, 7 Oct. 2016, <http://www.thefashionlaw.com/learn/proposed-Copyright-legislation-for-fashion-designs>.

This website is a world renown fashion and business blog ran by Julie Zerbo, an experienced lawyer. The blog covers major litigation cases in fashion, along with important legislative changes that affect the fashion industry. This specific article discussed proposed Copyright legislation that I discussed in my paper, that could have had the potential to completely change the way fashion designs are protected by Intellectual Property Laws.

Zerbo, Julie. "Where Luxury Brands Go, Counterfeiters Are Sure to Follow" *The Fashion Law*, The Fashion Law: An Independent Source For Law, Business, and Culture, 5 Feb. 2018, <http://www.thefashionlaw.com/home/as-brands-set-their-sights-on-india-so-too-do-counterfeit-sellers>

I used a second article from the Fashion Law blog, which discussed issues larger companies face with counterfeiters. The article primarily focused on online stores counterfeiting luxury brands, and trying to pass off products as authentic. This is important to my thesis, as it gives two high profile examples of cases involving online stores and luxury brands litigating. This ties directly into my thesis section on online counterfeiting.