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FASHION LAW IN INDIA: PROTECTING CREATIVITY AND BATTLING COUNTERFEITS

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INTRODUCTION

The Indian fashion industry today is a colourful mosaic where heritage meets modernity. It's the landscape of rich interplay of tradition and trend that is defining the contemporary Indian fashion. What was initially rooted in the work of regional artisans and weavers, has grown into a billion dollar empire and is projected to grow to \$115-125 billion in 2025.¹ The secret to such immense growth is not simply the consumer base nor Mumbai's streetwear or Banaras brocade but is fuelled by the rich diversity of fabrics and designs.

However what is precious and unique may come under peril as nearly 31% of all counterfeit goods that are seized in India are mostly Fashion Items. In this context, Fashion law is a blend of Intellectual Property, customs and trade regulations, with the sole goal to safeguard designers' creativity and fights the uncontrollable spread of the knock-offs. A strong legal framework is thus a vital part of the system, acting as a crucial link between innovation and commerce to prevent creative designs from being undermined by imitation. Rooted in cultural heritage, India's fashion sector consists many textiles and crafts that carry the official Geographical Indication (GI) tags. From Mysore silk to Banaras Zardozi and even the hand spun khadi cloth.²

The GI recognizes special local skills and protect unique designs as a property of that entire community it's originating from. At the same time contemporary Indian designers are increasingly courting international markets, blurring the line between ethnic crafts and global haute couture. These notable features make 'Fashion Law' in India especially dynamic

¹ Live Mint, "India's fashion market is worth \$50 bn" (Apr. 5, 2023).

² Press Information Bureau, "Geographical Indication (GI) Tagged Products", Ministry of Textiles, Govt. of India (July 29, 2022).

especially when it has to accommodate everything from preservation of tradition to protection of cutting-edge urban streetwear. Understanding how these regulations work means for lawyers and advocates alike, how general IP statutes and regulations become the thread and cloth of the industry, shaping, protecting and sometimes constraining the creative process.

INTELLECTUAL PROPERTY PROTECTIONS IN FASHION

As a designer sews pieces of fabric together to form a personalized garment, intellectual property rights (IPRs) provide the law with the stitches and seams that bind a fashion brand's identity together. In India, fashion creativity is protected by a combination of legislations, mainly the Trade Marks Act, 1999³, Copyright Act, 1957⁴, Designs Act, 2000⁵, and the Geographical Indications of Goods (Registration and Protection) Act, 1999⁶. Together, these acts offer protection to different aspects of fashion innovation. Trademarks protect brand identifiers such as names and logos; registered designs protect the distinctive shape, pattern, and ornamentation of clothes; copyrights protect original artistic works such as illustrations and textile prints; and geographical indications protect traditional crafts pertaining to a region. Each of these legal instruments is directed at a particular aspect of fashion, giving full protection.

1. Trademarks: These protect a brand's identifiers – its name, logo, distinctive slogans or even colours and shapes that distinguish it in the marketplace. For example, Indian courts do recognize that "non-traditional" marks in fashion can be protected where they function as source identifiers. A famous example is Christian Louboutin's red shoe sole: in *Christian Louboutin SAS v. Pawan Kumar*, a Delhi High Court enforced Louboutin's sole right to the red outsole, marking it as a well-known trademark. Similarly, the signature three-stripe pattern of Adidas was enforced against copying in *Adidas AG v. Bata India Ltd.* Practically, designers should register their brand names and logos early. Trademark rights last forever (renewable every 10) to allow a label to build long-term brand equity and prevent others from using confusingly similar marks.
2. Designs: The Designs Act, 2000 safeguards the visual appearance of an article of clothing – say, the design printed on a saree, the form of a handbag, or surface decoration on a shoe – if industrially applied. Once registered, a design is given

³ Trade Marks Act, 1999 (No. 47 of 1999) (India).

⁴ Copyright Act, 1957 (No. 14 of 1957) (India).

⁵ Designs Act, 2000 (No. 16 of 2000) (India).

⁶ Geographical Indications of Goods (Registration and Protection) Act, 1999 (No. 48 of 1999) (India).

protection for 10 years (which can be extended to 15). Design registration is crucial because unregistered designs have little remedy beyond limited copyright protection. Indeed, the law treats designs as essentially “industrial art”; for instance, if the same design is applied to more than 50 articles, it automatically loses copyright protection. Thus, securing a design registration is often the only way to prevent copycat producers from mass-replicating a garment style. A landmark Indian case *Ritika Pvt. Ltd. v. Biba Apparel Pvt. Ltd.* (noting on Landmark Cases in Pearl Academy) highlighted that registered designs have enforceable rights under this Act, while unregistered design copies may go unpunished.⁷

3. Copyright: Under the Copyright Act, any original artistic work is protected once it is created. In fashion, this covers creative sketches, fabric prints, and other two-dimensional artworks. For example, a designer’s hand-drawn motif for a textile, or a unique pattern on fabric, can be copyrighted. Copyright protection in India lasts for the life of the creator with more than 60 years as extendable. Notably, registration is not mandatory to have copyright (unlike designs), but registration serves as prima facie proof of ownership. However, there are limits: if an applied art is reproducible industrially (i.e. a design used on more than 50 garments), it ceases to enjoy copyright beyond those copies unless formally registered as a design. This “50-copy rule” means fashion houses sometimes use copyright for small limited-edition lines and design registration for larger collections.
4. Geographical Indications (GIs): GIs protect products whose quality and reputation are tied to a geographic origin. In textiles and garments, India has numerous GIs that safeguard traditional crafts as a collective brand. Famous instances are Kanchipuram silk, Chanderi sarees, Mysore silk, and the spinning wheel “Khadi” tag. If someone gets “Khadi” or “Chanderi” registered as GI, no other manufacturer (local or foreign) can sell their fabric under that tag. Not just is the local craftsman exempt from fraud, but it also protects heritage by making it authentic. For instance, the Khadi and Village Industries Commission has successfully stopped misuse of the “Khadi” mark on factory-produced textiles (the KVIC v. FabIndia dispute). In sum, GIs can serve as a form of brand protection for communities, complementing the individual trademark and design system.

⁷ Pearl Academy Editorial Team, “Fashion Law: Protecting Your Design and Brand” (Apr. 6, 2025).

Together, these IP tools give fashion brands legal exclusivity over different facets of their creative work. In metaphorical terms, if creativity is the coloured thread in a designer's fabric, then IP law is the loom that holds those threads in place – preventing free riders from snipping the fabric. Of course, the picture is not perfect: Indian law does not recognize massive protection for an entire garment design (unlike some jurisdictions), and what counts as “original artistic work” can be ambiguous. For example, a simple pattern used for decades (like the butta motif on kurtas) may be seen as traditional art rather than any one person's creation. But overall, these IPRs are the main legal warp and weft through which Indian fashion creators shield their originality.

BATTLING THE COUNTERFEIT MENACE

Where creativity blooms, counterfeiters often appear like weeds. Counterfeit fashion in India is a massive parallel industry, hurting both brands and consumers. The scale can be seen in stark figures: studies estimate that over 25–30% of goods sold in India are spurious, and apparel is one of the biggest categories (about a third of counterfeits). This piracy not only profits at the expense of the designers; it also supports unregulated factories, deceives consumers (counterfeit goods could be harmful), and waters down the overall value of the brand "Made in India". India lost a record US\$7 billion to fakes in 2019–2020, and the loss cost more than 3 million jobs.⁸ Evidently, applying fashion law means protecting an important economic ecosystem. Combatting counterfeits requires both prevention and reactive implementation. On the legal side, several remedies are available:

National Border Measures: India has strong provisions to halt counterfeit goods at the border. Under Section 11 of the Customs Act, 1962 and the IPR (Imported Goods) Enforcement Rules, import (or export) of goods infringing IP rights is expressly prohibited. Rights owners (trademarks, designs, copyrights, GIs) can record their registrations with Indian Customs, which equips officers to detain suspect shipments. In practice, if Customs has reasonable grounds, it may suspend release of imports pending inquiry. The rights holder then has to confirm the infringement and post a security (a bond roughly 110% of the goods' declared value, plus 25% as guarantee). Once so confirmed, Customs can confiscate and destroy the fakes – the costs of destruction are ultimately borne by the infringers or the importer. For example, luxury brands routinely submit “watchlists” of identifiers for Customs so that unauthorized knockoffs (say, a bag with a copied logo) are caught before they even enter the

⁸ Radha Khera & Ashwin Julka, “India – Fashion Law”, Global Legal Post (Mar. 2024).

market. In short, customs checks work as the first line of defence gradually eliminating and plugging holes through which counterfeits flow into India.

Criminal Sanctions: Indian law does not only rely on civil suits; trademark counterfeiting is a crime. The Trade Marks Act, 1999 (sections 102–105) criminalizes selling or offering for sale goods with a counterfeit trademark. An individual arrested with possession of intentionally counterfeit branded apparel or bags may be imprisoned (6 months to 3 years) and fined (initially ₹50,000 to ₹200,000). For repeat offenders, jail terms and fines are higher. This means that street vendors or factory owners flogging blatant fakes face real jail time. (Defendants do have a defence: if they can show they took “all reasonable precautions” and had no reason to suspect the mark was fake, they may escape conviction. But proving innocence is often hard.) Furthermore, piracy of fashion prints or embroideries can attract charges under the Copyright Act or GI Act. Thus, India’s criminal law treats counterfeit fashion not as a mere nuisance but as a significant breach of public order and commerce.

Civil Remedies: Brands and designers also commonly seek civil injunctions and damages. The Trademark Act allows a rights holder to sue for infringement of a registered mark or to bring a passing-off action for unregistered marks (on proof of goodwill). Similarly, if a textile design is registered under the Designs Act, the owner can obtain an injunction against unauthorized copies. Where copyright is involved, the Copyright Act provides for statutory damages and account of profits. In notable civil cases, Indian courts have granted relief: for example, in *Rajesh Masrani v. Tahiliani Design*, the Delhi High Court examined whether fabric prints on garments were protectable as “artistic works” under copyright. In that case, hand-painted fabric motifs (swatches) were held to be protected, and copying them was found to infringe. Each such decision helps clarify and strengthen fashion IP rights.

Regulatory and Market Measures: Beyond pure IP law, other regulations help. Consumer protection laws require accurate labelling of garments (origin, manufacturer, MRP, etc.), deterring false branding. The Legal Metrology rules (amended in 2022) now even mandate loose apparel be labelled with the maker’s name and size, making it harder to anonymously sell counterfeits. E-commerce regulations and the Consumer Protection Act 2019 push online marketplaces to verify sellers and remove fake products. Initiatives like the I-Watch portal allow IP owners to identify infringing content online and get court orders to block it. Finally, industry bodies (like the Fashion Design Council of India) increasingly run IP-awareness

camps, and law enforcement agencies conduct raids on notorious “knock-off” districts. All these measures create a multi-pronged offense against counterfeiting.

Simply put, Indian law provides fashion's world with a shield and a sword. The shield is intellectual property protection – guaranteeing creators monopoly over original designs. The sword is enforcement – via customs seizures, criminal sanctions, and lawsuits – which can cut off the supply of counterfeits. But in practice, successful enforcement is work: brands need to actively register their IP, monitor the marketplace, and pursue infringers. As the old saying goes, silence encourages copyists; so active policing of one's rights (issuing cease-and-desist letters, reporting to customs, getting injunctions) is crucial. For example, most global luxury brands regularly involve Indian customs in seizing counterfeit sneakers and handbags. Such continuous enforcement is crucial in making the marketplace equitable.

CASE STUDIES AND RECENT TRENDS

Concrete examples help illustrate how fashion law plays out. Several high-profile cases in India have defined the contours of protection:

In *Adidas AG v. Bata India Ltd.*, the Delhi High Court affirmed that Adidas's famous “three stripe” motif was a distinctive trademark. Even though the stripes might seem simple, the court recognized that consumers associate the pattern specifically with Adidas. This case underscores that in fashion, even pattern elements (stripes, stitching designs) can be protected as brand identifiers under trademark law if proven distinctiveness.

Christian Louboutin SAS v. Pawan Kumar: As mentioned, this case centred on Louboutin's patent red sole. In 2014, the Delhi High Court (later upheld by the Division Bench) held the red sole to be a “well-known” non-conventional trademark, barring an Indian shoe maker from selling red-soled knockoff heels. The ruling set an important precedent for protecting look-and-feel elements in Indian fashion.

Ritika Pvt. Ltd. v. Biba Apparels Pvt. Ltd.: In a design battle, one designer accused another of copying dress motifs. The dispute highlighted that to win such a case, the plaintiff needed registered design rights. The case ultimately reinforced that (i) design registration provides clear-cut protection under the Designs Act, and (ii) absent registration, the remedy falls under copyright or passing off. After this case, many Indian labels began filing more design applications to safeguard their creations.

KVIC v. FabIndia: This GI conflict concerned use of “Khadi” and “Charkha” by the retailer FabIndia. The Bombay High Court restrained FabIndia from using the “Charkha” logo and the ‘Khadi’ mark on non-GI goods, reaffirming that Khadi is a legally protected term for hand-spun cotton cloth. It signalled that traditional craft names could be fiercely defended under the GI Act.

The preceding examples illustrate the real stakes involved: Designs, logos, and even colors can be recognized as property. There have been some noteworthy developments on the legislative side as well. India, starting in 2023, enacted a new Legal Metrology rule requiring unpackaged garments to display labels including the brand, size, and maximum retail price (MRP) in a bid towards greater transparency. Online marketplaces have been issued new obligations under the Consumer Protection (E-Commerce) Rules, 2020 to establish a reporting mechanism for trademark counterfeit and trademark infringement. With India’s accession to international treaties, such as the Madrid Protocol on trademark, filing for foreign designers has been simplified. As of now, the emerging issues of digital and NFT fashion have not been well defined legally in India, as designers begin to mint virtual fashion items. However, the direction of India’s fashion law is becoming more defined. Jurisprudence is being created within the country’s metropolitan centres, and lawmakers are more frequently modernizing IP laws. There is consensus, however, among experts, that more precise legislation is needed in this domain. As one example, a recent commentary has noted that from a fashion point of view, India’s current IPR system is “nascent,” which brings a lot of ambiguity. Industry stakeholders have proposed developing bespoke fashion-specific policies or even a standalone “Fashion Act” that would regulate matters such as swift design filing, equitable treatment in pattern design use, and fair use doctrine in pattern design. In the meantime, stakeholders have to depend on fragmented frameworks and judicial exegesis.⁹

CONCLUSION

Fashion law is a balanced contradiction in India: a protector of innovation and a sentinel against imitation. This is critical for a nation where fashion literally stitches together culture and modernity. With trademark laws, designers can safeguard brand identity, while designs and copyrights barring others from cloning their originals ensures ownership of creation. Simultaneously, customs laws and the criminal code create a net to ensnare counterfeiters

⁹ Ruchi Singh et al., “India: Bolstered anti-counterfeiting regime champions stricter market regulation and enhanced consumer awareness”, *World Trademark Review* (Sept. 29, 2023).

before their illicit goods can spew into the markets. These legal strands, intertwined, decide whether India's design ingenuity flourishes or is choked. However, the path remains unfinished. As one commentator noted, "the Indian legal landscape regarding fashion is still in its nascent stage." Existing laws "have tried to address concerns that have arisen," are not fashion-targeted and sometimes vague.¹⁰ It is imperative for all labels, whether well-known or emerging, to comprehend and safeguard the law. For advocates and learners, mastering fashion law is recognizing how abstract IP doctrines relate to the tangible dresses, fabrics, and brands. Following recent judicial decisions and their shifts, like the Louboutin red sole trademark or new Geographic Indication recognitions, assist counsel specialists in strategizing how best to help creators in protecting their work. Adopting such strategies assists in the minimization of counterfeits. Ultimately, effective fashion law protects India's cultural creativity from the consequences of its own abundance. Just like a well-fitted tailored suit, the proper suit of safeguards and litigative action equips designers with the confidence to innovate, piece by piece, rest assured that their creations are exclusive to their brand.¹¹

¹⁰ Ruchi Singh & Rommel Pandit, "India: Lack of court harmonisation in tackling emerging online infringement threats", *World Trademark Review* (July 2025).

¹¹ Aashkaa Jain, "Protecting Fashion or Stifling Innovation", *IIPRD Blog* (Apr. 4, 2024).