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Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

**“TRADEMARK INFRINGEMENT AND BRAND
PROTECTION STRATEGIES AMONG EMERGING
START - UPS IN TAMIL NADU”**

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ABSTRACT

The history of fashion is replete with shifts and growth. The global or national economy can be impacted by fashion. It can influence politics, function as a kind of art, and have an impact on a person's private life. It goes without saying that one of the main things that influences and is influenced by culture is fashion.

It has existed continuously and will continue to do so for as long as humans do. In the realm of fashion, trends essentially drive the industry: a new trend gains traction, designers create their own takes on it, consumers purchase the items, the trend eventually wanes, and a new one appears. Trends cover a wide range of industries, including decor, body piercings, tattoos, surgical procedures, clothes, shoes, accessories, cosmetics, and interior decoration.

Since the Indian apparel market is expected to reach \$220 billion by 2020, fashion trends have become significantly well-known than any other. Intellectual property rights are important for fashion sustainability. It guards against imitation and maintains the uniqueness of every single design. A small infringement of intellectual property rights will result in an enormous loss for the business.

Study up on the regulations pertaining to intellectual property that affect fashion diligence. A series of legal rights known as copyright are given to the specific individual or inventor who

created the design. Opponents might be prohibited from duplicating or disseminating inside the allotted time by utilizing this intellectual property right. Participants or authors are free to use their creations without any limitations. Obtaining the owner's consent is crucial when using creative work.

INTRODUCTION

Intellectual property rights are always changing in the twenty-first century due to advancements in science and technology. They never stay in one location; they are always adding more resources. These days, electronic gadgets are always evolving and closely linked to the fashion sector. The fashion business, with a \$500 billion global market, is always evolving and setting new standards. Thus, it is crucial to protect the history connected to the fashion business

These include specific intellectual property such as trademarks associated with specific businesses and designs for specific apparel products. Artificial intelligence plays a major role in the fashion industry's growth and sustainability. Any company looking to grow must start making money off of its intellectual property in order to build a solid and recognisable brand. For IP to be monetised, a fair and reliable business value must be established. This can be accomplished by developing a successful marketing plan and arranging products in a way that maximizes sales and growth.

The current growing trends in the fashion business have had a significant impact on the worldwide fashion sector. In today's world, fashion goes beyond attire. Intellectual property rights are irrelevant. Like conventional laws, it has no outward form. An intellectual production of its person constitutes a piece of heritage. It's used to protect an idea. The concept is not kept in its whole.

1.1 POSITIVE EFFECT OF INTELLECTUAL PROPERTY PROTECTION

- **Conservation of creativity:**

Designers' creative efforts, such as garment designs, textile patterns, trademarks, and logos, are protected by intellectual rights. Knowing that their works are legally protected motivates designers to devote time, energy, and resources to creating novel designs.

- Encouragement of innovation:

Designers are granted exclusive rights, and intellectual property rights (IPR) encourage creativity in the sector. In order to stand out from the competition and draw in customers, designers are driven to create original and cutting-edge designs. Fashion is constantly being pushed to new heights by the steady flow of new ideas and designs brought forth by this competition.

- Economy Growth and Job Creation:

The fashion sector is a major driver of both economic growth and job creation in many economies. IPR protection helps this growth by facilitating the establishment and expansion of enterprises for manufacturers, fashion brands, and designers. Stronger intellectual property rights encourage businesses to invest in the sector, which boosts output, exports, and job prospects.

- Prohibition of Counterfeiting and Piracy:

In the fashion industry, counterfeit goods and piracy are serious problems that cause real designers and companies to suffer significant financial losses. IPR protection provides designers with the legal means to pursue counterfeiters and infringers, which helps address these problems. In addition to preserving the integrity and prestige of fashion labels, this protection keeps customers safe from buying subpar, sometimes dangerous counterfeit goods.

- Possibilities for Collaboration and Licensing:

In the fashion sector, IPR promotes cooperation and licensing agreements. Designers can reach new markets, increase the visibility of their brands, and create new revenue streams by licensing their patents, trademarks, or designs to other businesses. Licensing agreements facilitate partnerships, knowledge exchange, and the expansion and globalization of the fashion sector¹.

1.2 India in the Past: The Origins of Indian Style

India's fashion business has its origins in its rich historical and cultural heritage, which date back thousands of years. Indian textile manufacture has a long history and has always played a significant role in the country's economy and culture.

- Indus Valley Civilization's Textile Manufacturing (3300–1300 BCE)

¹ AchyuthRao N, Interface between Copyright and Design Rights in India, 2019. <https://www.sc-ip.in/post/interface-between-copyright-and-design-rights-in-india>

When the Indus Valley Civilisation flourished between 3300 and 1300 BCE, it left behind the first evidence of fashion in India. These people were expert weavers and spinners of cotton, according to archaeological discoveries. A vibrant textile industry is demonstrated by fragments of woven cotton discovered at places like Mohenjo-Daro and Harappa. Indigo was used to dye clothes, and the discovery of colourful apparel suggests that the Indus Valley's ancient residents were not just cotton producers but also dyers.

The fabrics made during this time were straightforward but useful, frequently embellished with straightforward patterns and decorations. Men wore a sort of loincloth called a dhoti, while women wore long, draped pieces of cloth that resembled modern sarees. The main purpose of the clothing was to provide adequate comfort. With the subcontinent's warm temperature in mind, most clothing was left unstitched.

- From 1500 to 500 BCE, the Vedic Era and the Origins of the Saree

The saree, a garment that is still a crucial component of Indian design today, originated as the principal clothing worn by women throughout the Vedic period, which lasted from 1500 to 500 BCE. Symbolizing the status of women in society, the unstitched, draping material offered comfort and versatility. The saree, like other Indian clothing, was dyed in vivid hues, frequently with the use of organic dyes derived from flowers, minerals, and vegetation. By now silk was starting to become popular, especially with the wealthier segments of the population. The manufacture of magnificent silk garments, sought after by the elite and royalty, was made possible by India's mastery of the practice of sericulture.

Given the intimate association between religion and daily life, the elaborate designs on silk cloths were frequently influenced by religious and mythical themes.

- Buddhism and Jainism's Influence on Indian Style

From the sixth century BCE onwards, Buddhism and Jainism, with their emphasis on simplicity and a disengagement from worldly possessions, had an impact on Indian fashion. These values might be seen in the plain cotton clothes that monks and nuns wore. Though the upper classes and kings continued to wear silk and other luxurious materials, this simplicity coexisted with their complex and intricate attire.

- Foreign Migrants' Influence on Mediaeval India

From the eighth to the eighteenth centuries, foreign emperors like the Mughals, Turks, and Afghans invaded India, each bringing with them unique fashion influences.

- Early Muslim Invasion and Fashion Shifts (8th–13th Century)

Indian fashion saw dramatic transformations with the advent of the first Muslim conquests in the eighth century. Islamic modesty laws impacted women's design, bringing in new items like the burqa and salwar-kameez. The salwar-kameez, which consists of long tunic (kameez) and baggy trousers (salwar), gained popularity in North India and is still a basic piece of Indian clothing today. The merging of Persian and Indian styles was another result of the cultural interchange between the local Indian population and the invading Muslims. Intricate embroidery techniques like zardozi and chikankari were introduced, and fabrics like silk, velvet, and brocade were utilized extensively.

- **The Mughal Era: The Magnificent Age of Indian Fashion (1526–1857)**

India saw a thriving period of art, culture, and fashion during the Mughal era, which began in the 16th century. Indian textiles and apparel achieved unprecedented levels of refinement during the reigns of Mughal emperors such as Akbar and Shah Jahan.

Using unstitched clothing was a custom that was abandoned when the Mughal kings arrived and introduced the technique of tailoring. Custom clothes like the jama, a long coat, and the angarkha, a robe-like item, gained popularity. Mughal court women frequently wore dupattas (shawls) and embroidered blouses with long, flowing skirts known as ghagras. Rich materials like silk, velvet, and brocade were used in Mughal fashion, along with elaborate decorations like bandhani (tie-dye), gotapatti (applique work), and zardozi (gold thread embroidery). These methods were frequently employed to produce sumptuous clothing that conveyed the wearer's wealth and rank.

India became a major center for the manufacture and commerce of textiles throughout this time. Europeans were keen to buy Indian textiles, especially muslin, chintz, and calico, because of their superior quality and artistry. The Mughal emperors encouraged the arts as well, and throughout their control, numerous novel methods of weaving, dyeing, and needlework emerged.

1.3 British rule in Colonial India: The Inception of Modern Style

An important watershed in the development of Indian fashion occurred with the British arrival in India in the 18th century. India's apparel and textile industries were greatly influenced by the British colonial era, also known as the British Raj, which spanned from 1757 to 1947.

- **Western Clothing's Inaugural**

Clothes in Western fashion started to become popular in Indian society during the

British Raj. The fashion preferences of British officials and their families were typified by dresses, blouses, trousers and suits that were cut to perfection. Western apparel became popular among Indian elites, especially those living in cities, as a status symbol and indication of modernity.

In particular, the urban middle and upper classes started wearing suits, slacks, and jackets in the Western style for males. Though they started to incorporate Western ideas into their dress, women continued to wear traditional attire. Though it was frequently paired with Western-inspired blouses and petticoats, the saree remained the staple clothing item for Indian ladies.

- **How Indian Textiles Were Affected by the Industrial Revolution**

India's textile sector was greatly impacted by the European Industrial Revolution. As machine-made textiles could be produced more quickly and cheaply than Indian handwoven fabrics, British firms started to produce them. Consequently, the traditional weaving communities in India suffered greatly as the demand for Indian textiles declined in both home and foreign markets. Further debilitating the Indian textile industry were tariffs and taxes levied by the British. The Indian textile industry, once a robust industry, was reduced to a shell of its former glory, with many weavers put out of business.

- **The Swadeshi Movement and Indian Textiles' Resurgence**

During the late 19th and early 20th centuries, Indian nationalism gained momentum, with figures such as Mahatma Gandhi promoting the boycott of British products and the resuscitation of Indian trade. Indian-made goods were to be promoted and British textiles were to be boycotted, according to the 1905-founded Swadeshi Movement. The handwoven cotton fabric known as khadi gained popularity thanks to Gandhi as a representation of independence and defiance against British colonial control. India's fight for independence and dedication to self-sufficiency are symbolized by the potent political emblem known as the khadi. The current Indian fashion industry was founded on the movement, which also assisted in revitalizing the country's textile sector.

1.4 India After Independence: The Development of the Modern Fashion Industry

India started a path of modernisation and economic growth after winning its freedom from British domination in 1947. The fashion industry started to change as well, fusing contemporary Western ideas with traditional Indian aspects.

- **Bollywood's Effect on Indian Fashion**

India's film industry, Bollywood, flourished throughout the post-independence era and had a significant impact on Indian fashion. Millions of Indians follow the trends set by Bollywood celebrities, who are known for their opulent and spectacular attire. Bollywood films also brought new fashions and fusion clothes that combined Indian and Western aspects, yet the saree, salwar-kameez, lehenga, and kurta-pajama remained popular. When fashion designers started making costumes for movies, Indian fashion gained more recognition both domestically and globally. Fashion legends like Madhubala, Nargis, Rekha, and Hema Malini inspired generations of Indian women with their sophisticated and fashionable ensembles.

- **The Ascent of Indian Designers of Fashion**

The first generation of Indian fashion designers came of age in the 1980s. The modern Indian fashion aesthetic was pioneered by manufacturers like Tarun Tahiliani, Ritu Kumar, and Rohit Khosla, who fused traditional Indian craftsmanship with contemporary design sensibility.

These designers started participating in fashion shows and exhibitions to present their creations, which contributed to the international recognition of Indian fashion. Tarun Tahiliani introduced Western-style haute couture to the Indian fashion world, whilst Ritu Kumar was renowned for resurrecting ancient Indian embroidery techniques.

1.5 The 21st-century Indian Fashion Industry and Globalization

The Indian clothing industry saw substantial transformations at the start of the twenty-first century. The sector has changed as a result of economic liberalization, globalization, and the development of the internet. It is now more dynamic, diverse, and globally connected.

- **The Development of Designer Labels and Fashion Weeks**

Lakmé Fashion Week and other fashion events were established in the early 2000s, giving Indian designers a stage on which to present their work to journalists and customers worldwide. These fashion weeks have grown in significance as dates on the globally recognised fashion calendar, enhancing India's standing in the global fashion scene. Designer brands like Manish Malhotra, Anamika Khanna, and Sabyasachi Mukherjee have become well-known both nationally and internationally. These designers have created a distinctive and distinctly Indian fashion style by skilfully fusing modern silhouettes and global trends with conventional Indian

materials and methods.²

- The Growth of Online Shopping and Fast Fashion

E-commerce and rapid fashion have become more popular in the Indian fashion business in recent years. Global labels such as Zara, H&M, and Forever 21 have made their way into the Indian market, catering to the nation's expanding middle class with stylish, reasonably priced apparel. Simultaneously, Indian e-commerce sites such as Myntra, Jabong, and Ajio have transformed the way Indians purchase apparel, hence increasing accessibility to fashion for all Indian consumers.

- Sustainability and Indian Fashion's Future

The Indian fashion industry is starting to adopt more environmentally friendly procedures while the global fashion industry struggles with challenges of sustainability and ethical manufacturing. Eco-friendly materials, age-old handloom techniques, and moral production practices are becoming more and more popular among designers. Sustainable fashion has been encouraged by initiatives such as the Fashion Design Council of India (FDCI), and eco-friendly methods have been encouraged by the introduction of environmentally conscious fashion segments on venues like Lakmé Fashion Week in India. With a greater emphasis being placed on diversity, creativity, and sustainability, the future of the Indian fashion industry is bright. The industry is positioned to grow into a significant force in the global fashion scene while adhering to its rich cultural legacy and varied customs as Indian designers continue to leave their imprint on the world arena.

CONCLUSION AND SUGGESTION

The present study examined the complexities of trademark infringement and the effectiveness of brand protection strategies among emerging start-ups in Tamil Nadu within the broader framework of intellectual property rights in the fashion industry. The research reveals that while intellectual property laws provide essential legal protection, their practical enforcement remains limited due to rapid market changes, high litigation costs, and the increasing prevalence of counterfeiting.

The fashion industry, characterized by short product life cycles and continuous innovation, poses unique challenges to traditional legal frameworks. Although trademarks play a crucial

² POOJA KHURANA, INTRODUCTION TO FASHION TECHNOLOGY 15-17 (1st ed., 2007)

role in safeguarding brand identity, they are insufficient as standalone tools to prevent infringement, especially in a fast-fashion and digitally driven market.

Further, the study highlights that emerging start-ups are particularly vulnerable due to lack of awareness, financial constraints, and limited access to legal remedies. Despite these challenges, the growing awareness of intellectual property rights, technological advancements such as blockchain and AI, and government initiatives indicate a positive shift towards better protection mechanisms.

Thus, while the legal framework exists, its effectiveness depends largely on accessibility, enforcement, and adaptation to the dynamic nature of the fashion industry.

RECOMMENDATIONS AND SUGGESTIONS

1. Legal Reforms

- Simplify trademark and design registration procedures
- Introduce fast-track courts for IP disputes
- Reduce costs for start-ups through subsidies

2. Strengthening Enforcement

- Establish specialized IP enforcement agencies
- Improve monitoring of online marketplaces
- Increase penalties for counterfeiters

3. Technological Integration

- Use blockchain for product authentication
- Implement AI tools to detect infringement
- Promote digital tracking systems for brands

4. Awareness and Education

- Conduct IP awareness programs for start-ups
- Include IP education in business and law curriculum
- Encourage legal aid clinics for designers

5. Government Support

- Provide financial assistance and legal aid
- Encourage start-up incubators focusing on IP protection
- Promote “Make in India” branding with IP safeguards

6. International Cooperation

- Strengthen cross-border IP enforcement
- Collaborate with global organizations for anti-counterfeiting measures

