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THE ROLE OF ARTIFICIAL INTELLIGENCE IN THE FASHION INDUSTRY: NAVIGATING INTELLECTUAL PROPERTY RIGHTS THROUGH THE LENS OF COPYRIGHT LAW

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I. ABSTRACT

Every sector breathes and expands with technology every day, including fashion. The fashion industry is constantly evolving and adopting new technologies, one of the most striking technologies is the Artificial Intelligence (AI). AI has multiple applications in fashion including assist in creating designs and patterns, predicting future trends, computing consumer data and improving service delivery. Nonetheless, the application of AI in fashion has dire consequences in law, specifically concerning Intellectual Property Rights (IP). As AI poses threats to the fundamental principles of IP law, exploring its implication on IP rights is of utmost significance. This research focuses on whether IP rights, specifically the Copyright and design rights, are applicable to the outputs of AI. It seeks to determine how much protection Indian IP laws, specifically the Copyright Act, 1957 provide for works created by AI. Problems such as authorship, ownership disputes, and originality in relation to the Indian legal system are discussed. Moreover, the research analyzes the scope of protections available under Indian law for outputs created by AI. In addition, a comparison with other jurisdictions sheds light on how these AI-related laws of other countries deal with similar problems. The study elaborates on the notion that while AI presents vast opportunities for advancement in fashion, it also illuminates extreme concerns of integrating AI technologies into fashion business. Hence, for the ever-evolving IP laws, it is vital to balance technological advancements with protection for designers, creators and businesses.²

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² Sara de Freitas Pessoa Briote, "The Use of AI in the Fashion Industry" (Ciência-UCP | Universidade Católica Portuguesa, September 27, 2023) <<https://ciencia.ucp.pt/en/studentTheses/the-use-of-ai-in-the-fashion-industry>> accessed February 15, 2025

II. KEY WORDS

Artificial Intelligence, Copyright law, Fashion Industry, IP Laws.

III. INTRODUCTION

A. OBJECTIVE

To study the effect of AI in fashion industry with respect to the Copyright law and to analyse the adequacy of present IP frameworks.

B. RESEARCH METHODOLOGY

This paper takes up an interdisciplinary and qualitative approach, incorporating legal analysis, comparative study, and theoretical evaluation to examine the role of artificial intelligence (AI) in the fashion industry and its consequences for IPR with respect to the Copyright laws. The research includes a literature review of various articles, legal journals, case studies, and legal perspectives amongst several jurisdictions, including India, EU, US. The objective of this study is to measure the revolutionizing reaction to AI's impact on IP rights globally and its effect on the fashion sector, along with exploring AI in the context of authorship and ownership. The study also involves analysing policy measures, potential reforms, and global best practices. This research adopts a doctrinal research methodology, depending on primary sources such as statutes, judicial precedents, and legal databases, including various research engines such as Google Scholar, ResearchGate, JSTOR, and other academic databases along with the secondary sources like, industry reports, and comparative studies.

C. RESEARCH QUESTIONS

1. To what extent does the Copyright Act, 1957, provide protection for AI-generated fashion designs, and how can legal frameworks be adapted to balance innovation with the rights of human creators?
2. How do international jurisdictions address the authorship and ownership of AI-generated creations in the fashion industry, and what lessons can India learn from these frameworks?

3. Are the IP challenges posed by AI generated Fashion designs distinct from those in other AI driven creative industries such as literature, music or visual arts, and what implications does this have for future legal reforms?

D. LITERATURE REVIEW

AI endures to considerably sculpt the fashion industry in many ways, including the design, fabrication, marketing, and retail. AI and AI-based digital tools help design, automate, and improve consumer experiences via accurate user information, predict fashion trends based on market inputs. However, these technologies have raised important intellectual property (IP) implications, especially in determining authorship and ownership of these AI based creations. Since IP laws, in the form of copyright, patents, and design protection, are built and developed around human creativity, the fashion application of AI has moved faster than IP protection. This literature review investigates how AI has had an impact on fashion's intellectual property rights, and discusses some of the relevant entities related to copyright, patents, design protection, transparency, and moral rights through the lens of these human vs. machine-based creation issues, as well as the need for reform in IP law to maintain a fair balance between innovators and the protections granted to human creators.

1. The Use of AI in the Fashion Industry: The Impacts on Intellectual Property Rights³ - Sara de Freitas Pessoa Briote⁴

This thesis analyses the effect of AI on the fashion industry, predominantly the effect on its IP rights. It assesses the importance of AI in fashion design, production, advertising, and sales along with gaps in delivering protection to works produced by AI under the prevailing IP systems. The research explores the critical issues in law related to AI and fashion design with regard to content: authorship of copyright, ownership, infringement in law of copyright, patent, design, trademark, and trade secret. It stresses the impact of AI on existing

³ Sara de Freitas Pessoa Briote, "The Use of AI in the Fashion Industry" (*Ciência-UCP | Universidade Católica Portuguesa*, September 27, 2023) <<https://ciencia.ucp.pt/en/studentTheses/the-use-of-ai-in-the-fashion-industry>> accessed February 15, 2025

⁴ BRIOTE S, "The Use of AI in the Fashion Industry: The Impacts on Intellectual Property Rights" [2023] *Catolica Faculdade de direito* <[203552768.pdf](#)> accessed February 15, 2025

frameworks of IP law and advocates modification of laws to deal with such issues.

2. The Integration of Artificial intelligence in the Fashion Industry and its Impact on Sustainable Fashion: A systematic Literature review – Dwinatasha Alwy & Richard⁵

This article focuses on the impact of AI in fashion, exploring its effects on supply chain administration, waste curtailment, and personalized shopper assistance. With AI, fashion businesses can accurately predict demand, thereby only producing what is necessary, reducing excess production and waste. Furthermore, AI technologies help improve customer interactions through tailored recommendations and virtual fitting rooms, which enhances satisfaction. On the other hand, the application of AI technologies poses problems regarding privacy issues, large capital expenditures, and changes to employment within design and retail. The article highlighted the concerns regarding advancement in technology while still considering ethical implications and human creation in fashion design and creation.

3. Stateless NYC, 2024, 'What are the ethical implications of using AI in fashion design in 2024?' - Stateless NYC Blog⁶

This article deals with the ethical clashes of AI in fashion design, including IP involvements, cultural appropriation, data confidentiality, and trade shift. It surveys AI-bred design rights, the threat of design duplication, and AI's role in trend calculation. The article offers industry perceptions into AI's ethical impact on fashion. It is appreciated for grasping accountable AI function in fashion design. The article concludes that ethical AI integration is important for equality and cultural respect.

⁵ Alwy D and Richard, "The Integration of Artificial Intelligence in the Fashion Industry and Its Impact on Sustainable Fashion: A Systematic Literature Review" (*Springer Nature Singapore*, January 1, 2024) <https://link.springer.com/chapter/10.1007/978-981-99-8498-5_17#citeas> accessed February 15, 2025

⁶ Stateless NYC Blog< [What are the ethical implications of using AI in fashion design in 2024? - blog.stateless.nyc/](https://blog.stateless.nyc/)> accessed February 15, 2025

4. **A Detailed Review of Artificial Intelligence Applied in the Fashion and Apparel Industry** - C. Giri, S. Jain, X. Zeng and P. Bruniaux, in IEEE Access, vol. 7, pp. 95376-95396, 2019, doi: 10.1109/ACCESS.2019.2928979.⁷

This paper studies the impact of AI in the fashion and apparel industry over recent decades. The authors analyze various AI applications, including design automation, trend forecasting, supply chain optimization, and personalized marketing strategies. It involves a broad revaluation of AI technologies altering diverse components of the industry. This paper is helpful for understanding how AI innovations boost competence and innovation in fashion. The paper concludes that AI has extensively impacted the fashion industry, offering a number of benefits.

5. **AI & the Fashion Industry: What Is Next for Your Company?** - The National Law Review - Lupo, A.V., Jasnow, D., and Xu, F.A., 2024.⁸

Yet another article explores AI's role in fashion, focusing on pattern, style prediction, and advertising and promotion. The authors discuss AI-driven inventions and legal apprehensions, including IP risks. It focusses on opportunities and challenges in AI induced fashion, useful for understanding AI's legal and business impact in fashion. A limitation is the lack of long-term industry data. The article settles that AI offers growth but requires careful legal routing.

IV. LEGAL IMPLICATIONS OF ARTIFICIAL INTELLIGENCE IN THE FASHION INDUSTRY

A. ROLE AND EVOLUTION OF AI IN FASHION

AI is continuously becoming a major breakthrough in the evolution of fashion industry. The AI's capability to research through various resources, blogs, posts, social sites, international fashion shows, etc is transforming the fashion industry practices.

⁷ Giri C and others, "A Detailed Review of Artificial Intelligence Applied in the Fashion and Apparel Industry" (*IEEE Xplore*, July 15, 2019) <<https://ieeexplore.ieee.org/document/8763948?denied=>>> accessed February 15, 2025

⁸ Lupo AV, "AI & the Fashion Industry: What Is Next for Your Company?" *National Law Review* (November 14, 2024) <<https://natlawreview.com/article/ai-fashion-industry-what-next-your-company>> accessed February 15, 2025

This study covers elements like textile selection, colour schemes, zonal fashion taste and labels sanctioning AI to identify patterns and predict future trends. For instance, MNCs like IBM teamed up with Fashion Institute of Technology (FIT) to tie together the power of AI for fashion through specialized Application Programming Interfaces (APIs) tailored to the industry. AI helps in refining the choice of fabrics, design and customization by elevating customer experience through various deep machine learning and prediction of future trends.⁹ The applications of AI in the fashion sector is tremendously increasing, anticipating trends by going through tons of datasets predicting upcoming styles and purchaser preferences. Moreover, AI helps fashion brands in managing their stock and supply chains immensely by the method of predictive analysis which looks at the past data and predict future trends accurately, this saves money, reduces waste and improves efficiency. Not to mention the Virtual try-ons, size and style recommendations and on the online shopping platforms have made the shopping experience seamless.¹⁰

Generative AI has the ability to deep learn from data provided to it in form of images, texts, videos and past data and ongoing trends to generate new designs thereby questioning the authorship of AI generated designs. However, as conflicting it is, the AI generated designs have a great potential across the entire fashion ecosystem promising personalized interactions, on demand supply chain management, and effective waste management enhancing sustainable practices.¹¹ Famous fashion brands like Tommy Hilfiger, Dior, and Adidas have incorporated AI to boost their products, for account management, and customer engagement. In yet another case, The Fabricant, a start-up company has created AI-generated fashion pieces.¹²

⁹ Gupta A, 'The Rise of AI in the Fashion Industry' (*Research Gate*, October 2024) <https://www.researchgate.net/publication/385242729_The_Rise_of_AI_In_the_Fashion_Industry> accessed 2 May 2025

¹⁰ Singh S, 'Artificial Intelligence in the Fashion and Apparel Industry' (*Tekstilec*, 19 September 2024) <<https://journals.uni-lj.si/tekstilec/article/view/17943>> accessed 2 May 2025

¹¹ Ramos L and others, '(PDF) Artificial Intelligence and Sustainability in the Fashion Industry: A Review from 2010 to 2022' (*Research Gate*, 13 December 2023) <https://www.researchgate.net/publication/376460345_Artificial_intelligence_and_sustainability_in_the_fashion_industry_a_review_from_2010_to_2022> accessed 2 May 2025

¹² Giri C and others, "A Detailed Review of Artificial Intelligence Applied in the Fashion and Apparel Industry" (*IEEE Xplore*, July 15, 2019) <<https://ieeexplore.ieee.org/document/8763948?denied=>>> accessed 2 May, 2025

B. TYPES OF AI USED IN FASHION

Various AI models are used these days to make the fashion experience better –

1. Major players in the industry like “Bodify” use AI to analyse customer photographs by predictive analysis to assess accurate body measurements thereby recommending perfect fits to individuals through computer vision machine learning, thereby popularizing online shopping and reducing return rates.
2. Similarly, platforms like “Styleriser” assess customer images to detect their complexion and suggest fabric colours that would complement their skin tone through image analysis and recommendation algorithm. Similar apps in Indian sector, are Nykaa and Myntra offering virtual try-ons of clothing, fashion and beauty by capturing customer images and suggesting precise shades of clothing and cosmetics.
3. The Generative AI models serve as collaborative partners to designers offering fresh perspectives and boosting better ideas. By evaluating various data sets including social media, fashion week trends and consumer behaviour by data analytics and predictive modelling, these brands stay aligned with market demands.¹³
4. Through pattern recognition and verification algorithms AI analyses the authenticity of items by evaluating the intricate details and quality so as to prevent fake or fabricated products.¹⁴
5. Enhanced AI manufacturing uses technologies like automation and optimization algorithms to make the production process more efficient. It helps the companies to plan schedules, accordingly, use materials wisely, and cut surplus. This saves money as well as supports green practices.

¹³ Bertagnoli L, ‘Ai in Fashion: 8 Industry-Changing Examples’ (*Built In*, 16 May 2024) <<https://builtin.com/artificial-intelligence/ai-fashion>> accessed 3 May 2025

¹⁴ Pardes A, ‘Ai’s Latest Job? Designing Cool T-Shirts’ (*Wired*, 11 July 2019) <<https://www.wired.com/story/artificial-intelligence-in-fashion-design/?utm>> accessed 3 May 2025

C. EMERGING LEGAL CHALLENGES: AUTHORSHIP, OWNERSHIP, ORIGINALITY

The Indian Copyright Act of 1957, Section 2(d) assigns authorship to the person who creates it, therefore an author is the person who originally brings the work into existence.¹⁵ Conversely, when an AI generates some original work without human intervention, it becomes problematic to determine the authorship. Similarly when we talk about ownership rights which typically are vested with the author or the distributor engaged by author face problems in case of AI generated works. A few questions to explore could be, Can AI be the sole owner of the generated works? Should the ownership and authorship rights vest with developer, user or the AI or the person that feeds samples to the AI?

Since the advent of technology, there has been much more reliance on AI generated works, be it for learning a new skill or getting new ideas or feeding the AI with samples and creating completely new material; emerging fashion designers face problems due to cut throat competition and lack of knowledge, they end up relying on AI generated styles. As this may not be seen as a first hand problem, the AI generated designs could be a replica or strikingly similar to copyrighted works.¹⁶ There are plenty of AI tools that create a lot of designs that can arise complications for some companies. Nonetheless there are other important ethical concerns like risk of people losing their jobs to AI, and AI processing the given data and keeping the personal data safe. These issues will be dealt in subsequent chapters.

D. DISRUPTION OF TRADITIONAL IP NORMS

The fashion industry works in a complicated framework of IP Rights, protecting ideas and creations of creators and brands. Trademarks protect the brand names and logos associated of products, design patents safeguard the unique visually appealing

¹⁵ (Indian Copyright Act, 1957, 4 June 1957)

<https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/CprAct.pdf> accessed 3 May 2025

¹⁶ Albishri AA and Almisbahi RM, 'The Role of Artificial Intelligence in Fashion Design' (*Advances in Social Sciences Research Journal*, 31 August 2024)

<<https://journals.scholarpublishing.org/index.php/ASSRJ/article/view/17514>> accessed 4 May 2025

features of a design, such as the shape or pattern of a garment or accessory. Copyright covers artistic parts i.e. pictures, graphics or decorative shapes.¹⁷ Copyright law has been complex as it doesn't cover functionality of clothing i.e. shape or structure, but only artistic elements can be separated like original prints, artwork on cloth. Features like fabric type, colour, cut generally aren't protected, called "separability rule" in the US. Fashion's blend of function and style often restricts copyright protection. EU offers wider protection for original designs while US laws doesn't.¹⁸

The fashion sector previously had technologies like CAD (computer aided designs) 1980s, this made designing easier on computers, but it still needed human creativity, since it could not generate any new designs, it could only help refine the existing work. Another one was digital printing, this had boomed in late early 20s, it gave designers ways to express their ideas and creativity but kept humans as authors. Another one, 3D Printing and automated textile production raised questions about product designs but not the authorship. AI is however a completely different technology, it can create unique designs of its own, even without any human input. It possesses self-learning, auto generative features raising questions about authorship, making it significantly challenging and disruptive force when compared to the past technologies. AI learns from large amounts of copyrighted data which could lead to accidental replication, since AI generates material without clear sources making difficult to judge originality known as black box issue.¹⁹

¹⁷ Imri and Team S, 'SCOREDETECT Team' (*The Legality of AI-Generated Fashion Styling*, 12 February 2024) <<https://www.scoredetect.com/blog/posts/the-legality-of-ai-generated-fashion-styling>> accessed 4 May 2025

¹⁸ Araujo JD, 'The Protection of Intellectual Property Rights in the Fashion ...' (*IDEA The Law Review of the Franklin Pierce Center for IP*) <<https://law.unh.edu/sites/default/files/media/2024-09/1-jessica-essay.pdf>> accessed 4 May 2025

¹⁹ Härkönen H, 'The Impact of Artificial Intelligence on the Fashion Sector: A Moral Rights' Perspective' (*SSRN*, 11 October 2023) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4573087> accessed 4 May 2025

V. INTELLECTUAL PROPERTY RIGHTS AND AI-GENERATED FASHION: INDIAN AND INTERNATIONAL PERSPECTIVES

A. INDIAN LEGAL FRAMEWORK

Section 22(2) of Designs Act²⁰ reprimands the copying and piracy of registered designs, whereas Section 119 of the Patents Act²¹ deals with breaching of confidentiality where such information is leaked. The IT act imposes penalties for unauthorized use of AI system. Fresh laws like BNS, BNSS and BSA are shaping the integration of AI in fashion design with the Indian Framework. The BNS emphasizes responsibility and cybercrimes that are vital to AI generated designs. The BNSS enhances the legal procedures' transparency and facilitates the incorporation of AI in investigations.²²

B. INTERNATIONAL FRAMEWORKS (EU, UK, US)

AI generated fashion regulations are shifting rapidly at the international level. World organizations like the UNESCO, UN and the African Union are working on global regulations to deal with AI driven challenges like unfairness, labor impact and ethical issues. The EU has introduced the AI act, a breakthrough that groups AI systems based on their risks by enforcing stringent regulations for high-risk AI while promoting transparency and accountability.

Thaler v Comptroller General of Patents²³, a landmark case of UK dealt with whether AI can be listed as an inventor. The UK patent office denied stating that only humans must be inventors.²⁴ In yet another case of Infopaq International A/S v Danske Dagblades Forening²⁵, the EU court said for a work to be copyrighted it must show

²⁰ (Section 22 in the designs act, 2000) <<https://indiankanoon.org/doc/1643916/>> accessed 25 June 2025

²¹ Falsification of Entries in Register, etc.' (Indian Patent Act 1970-sections) <<https://ipindia.gov.in/writereaddata/portal/ev/sections/ps119.html>> accessed 25 June 2025

²² Sharma A, 'Legal Battles in AI Fashion Design: Who Claims Ownership?' (*Jus Corpus*, 24 November 2024) <<https://www.juscorpus.com/legal-battles-in-ai-fashion-design-who-claims-ownership/>> accessed 25 June 2025

²³ UKSC/2021/0201

²⁴ Thaler (Appellant) v Comptroller-General of Patents, Designs and Trademarks (Respondent)' (*UK Supreme Court*, 16 July 2024) <<https://www.supremecourt.uk/cases/uksc-2021-0201>> accessed 25 June 2025

²⁵ [2012] BUS LR 102

author's own creativity, which means that if AI creates something like fashion design without human intervention, it might not qualify for copyright.²⁶ The Australian DABUS Patent Application 2020 investigated the probability of identifying AI as an inventor which was originally rejected but later acknowledged under exclusive conditions thereby potentially impacting the ownership of AI generated designs in certain jurisdictions.²⁷

The US Copyright Office undoubtedly states that only humans can get copyright. Thus, if a design is created solely by AI, it won't get protection, but if a human guides or directs AI creativity, the work might be eligible for copyright. Nonetheless, the office requires the applicants to disclose the parts of work created using AI when applied for copyright to check if it meets the human authorship role.²⁸

C. COMPARATIVE CASE STUDIES

In the US case of *Thaler v Perlmutter*²⁹, the district court agreed with the copyrights office decision to reject copyright for an artwork created solely by AI stating that only humans can claim copyright.³⁰ In *Getty Images v Stability AI*³¹, Getty accused Stability AI of illegally using its images to train AI models which could be a copyright violation. This case attracted attention for its potential impact on the creative and tech industries.³² In *Anderson v Stability AI*³³, artists alleged that Stability AI, Midjourney, Deviant Art and Runway Ai models dishonestly used their copyrighted artworks to train AI models like Stable diffusion. The US district court partly permitted the

²⁶ Saxena B, 'Infopaq International A/S V. Danske Dagblades Forening (Case C-5/08), [2012] Bus LR 102' (*Center for Study and Research in Intellectual Property Rights [CSRIPR], NUSRL*, 13 April 2022) <<https://csriprnusrl.wordpress.com/2022/04/13/infopaq-international-a-s-v-danske-dagblades-forening-case-c-5-08-2012-bus-lr-102/>> accessed 25 June 2025

²⁷ (J 0008/20 (*designation of inventor/dabus*) 21-12-2021) <<https://www.epo.org/en/boards-of-appeal/decisions/j200008eu1>> accessed 25 June 2025

²⁸ Turner S, 'As Ai Colors Fashion, Copyright Remains a Gray Area (via PASSLE)' (*Passle*, 26 March 2025) <<https://whatstrending.fenwick.com/post/102k6no/as-ai-colors-fashion-copyright-remains-a-gray-area>> accessed 26 June 2025

²⁹ 22-CV-384-1564-BAH

³⁰ Mathur A, 'Case Review: Thaler V. Perlmutter (2023) - Center for Art Law' (*Center for Art Law - At the intersection of visual arts and the law*, 8 December 2023) <<https://itsartlaw.org/2023/12/11/case-summary-and-review-thaler-v-perlmutter/>> accessed 26 June 2025

³¹ EWHC 38 (Ch)

³² *Getty Images v. Stability Ai* (*BakerHostetler*, 10 January 2025) <<https://www.bakerlaw.com/getty-images-v-stability-ai/>> accessed 26 June 2025

³³ 3:23-cv-00201

inducement claims to proceed while dismissing some DMCA and unjust enrichment allegations.³⁴

D. HOW DIFFERENT JURISDICTIONS TACKLE AI-GENERATED FASHION DESIGNS

States are adopting numerous tactics for AI generated fashion designs, some consent AI to be attributed as a sole or co-creator thereby impacting ownership. The EU deliberates the individual or the entity using AI tech as the potential designer of AI assisted creations provided, they fulfill the novelty and individual character necessities. On the other hand, UK is exploring amendments to copyright law for tackling the challenges posed by AI, intending to balance the interests of creative industries and the AI sector.³⁵

VI. SECTORAL COMPARISONS AND ETHICAL CONSIDERATIONS

A. COMPARISON OF FASHION SECTOR WITH OTHER CREATIVE INDUSTRIES

Corresponding to music, art and literature, the fashion industry is built on creativity and originality. However, fashion designs have always had frailer legal protection compared to the other fields. The copyright in fashion typically only covers distinct artistic portions and not the full designs. The inadequate protection has been attributed for promoting fast fashion and making it tougher for designers to protect their work. The use of AI carries similar issues across creative fields, chiefly regarding authorship, ownership and the use of copyrighted materials for AI training. Fashion is product based and trend driven with a massive global reach, whereas music, art

³⁴ Sookman BB, 'AI Models and Copyright Infringement, Andersen v. Stability Ai' (*Lexology*, 19 August 2024) <<https://www.lexology.com/library/detail.aspx?g=638f4e7a-0785-489d-9222-3864d7bcea67>> accessed 26 June 2025

³⁵ Citma, 'The Impact of AI on IP Law in the World of Fashion' (*CITMA*) <<https://www.citma.org.uk/resources/the-impact-of-ai-on-ip-law-in-the-world-of-fashion-mb24.html>> accessed 26 June 2025

and literature are driven by individual creativity and have different business models and less environmental harm.³⁶

The fashion industry faces distinct challenges with the IP compared to music, art and literature. In music and literature, the original works are automatically protected by copyright but in fashion, clothing designs are usually not protected as easily due to its usefulness. Only artistic prints get copyright protection; in *Star Athletica v Varsity Brands*³⁷, the court stated that artistic parts of useful items like clothing designs can be copyrighted which caught the attention of fashion designers and experts in IP law.³⁸ In contrast fashion depends on design rights and trademarks to protect brand identity and appearance. Unlike in music or literature where replication is legally enforced and creators are well protected, the fashion world observes widespread design copying, specifically by fast fashion brands poses threat to exclusive designers. Furthermore, territorial differences occur, like while EU offers extensive design protection, US laws are fragmented. With the advent of AI, copying is easier now raising new issues about authorship and enforcement.³⁹

B. ARE FASHION IP CHALLENGES UNIQUE?

Fashion faces unique challenges when it comes to IP rights because of everchanging trends in fashion, and clothing is both useful and artistic. In the past, the copyright laws haven't strongly protected clothing designs compared to other creative industries. Fashion items are short lived and are easy to replicate which makes the lack of strong IP laws a greater issue. Now, with the advent of AI, replicating designs has become easier and faster thereby questioning the authorship of a design and whether using AI generated content violates IP rules, all while existing IP laws are already struggling to keep up.⁴⁰

³⁶ Liu M, 'Copyright in Clothing? Rights and Remedies in Fashion Ip' (*IP Law* 422 001, 19 April 2025) <<https://iplaw.allard.ubc.ca/2025/04/19/copyright-in-clothing-rights-and-remedies-in-fashion-ip/>> accessed 27 June 2025

³⁷ 580 US _ (2017)

³⁸ {{meta.Pagetitle}}' ({{meta.siteName}}) <<https://www.oyez.org/cases/2016/15-866>> accessed 27 June 2025

³⁹ Editorial, 'IP Law Mastery -' (*The Insurance Universe*, 3 May 2025) <<https://iplawmastery.com/>> accessed 27 June 2025

⁴⁰ Burnstine A, 'Agentic AI and the Future of Fashion: Autonomous Creativity and Intelligent Systems' (*View of agentic AI and the future of fashion: Autonomous creativity and intelligent systems*, 25

Fashion primarily depends on design rights like the industrial designs or design patents rather than copyright for legal protection. Copyright protects novel creative work only if the artistic portions can be severed from the useful function of the work. Furthermore, design rights secure the overall appearance of a product including its shape, design and surface ornamentation. This distinction is imperative as clothes are usually perceived as functional item making it difficult for an entire garment to get copyrighted. For instance, an extraordinary print on a textile might get copyrighted but the style, the cut of the cloth is usually not. In India, if a design is registered under a designs act, then it cannot be copyrighted under Section 15(1) of the copyright act. Section 15(2) states that if a design should've been registered but it isn't, it loses copyright protection after it is used more than 50 times by a third party.⁴¹ This highlights that copyright offers a limited protection in fashion while in fact design rights protect the appearance.⁴²

Since copyright only covers artistic portions that can be separated from a beneficial piece, this principle of separability makes it tougher to protect AI generated designs than AI generated music, art or writing. In music related works, an AI composition can be copyrighted if a person contributes enough creative work like arranging or editing the piece, then the human portions are protected. In visual arts, an image made completely by AI is not protected yet, a person can claim copyright in support of his own creative selections like editing, organising or heavily editing the AI images, though it cannot be copyrighted for AI generated sections. For literature, on the other hand, same principle applies that pure AI text is not protected but if an author guides, rewrites and shapes the AI output in a creative manner then their own inputs can be protected.⁴³

April 2025) <<https://journals.scholarpublishing.org/index.php/ABR/article/view/18608/10682>> accessed 28 June 2025

⁴¹ (Section 15 - India code) <[https://www.indiacode.nic.in/show-data?actid=AC_CEN_9_30_00006_195714_1517807321712&orderno=15#:~:text=15.-,Special provision regarding Copyright in designs registered or Capable of,2000 \(16 of 2000\)\].>](https://www.indiacode.nic.in/show-data?actid=AC_CEN_9_30_00006_195714_1517807321712&orderno=15#:~:text=15.-,Special provision regarding Copyright in designs registered or Capable of,2000 (16 of 2000)].>) accessed 27 June 2025

⁴² Singh S, 'Artificial Intelligence in the Fashion and Apparel Industry' (*Tekstilec*, 19 September 2024) <<https://journals.uni-lj.si/tekstilec/article/view/17943>> accessed 28 June 2025

⁴³ Zhang Y and Liu C, 'Unlocking the Potential of Artificial Intelligence in Fashion Design and E-Commerce Applications: The Case of Midjourney' (*MDPI*, 18 March 2024) <<https://www.mdpi.com/0718-1876/19/1/35>> accessed 28 June 2025

When an AI generates new clothing design, copyright mostly covers solely the absolute artistic portions like unique prints and embroidery and not the practical portions like the apparel's cut or shape. If the AI created design is principally about the cloth's cut or shape then it is likely to fall outside copyright protection thereby driving designers to design rights which have different benchmarks and periods. Since the apparel industry is both artistic and beneficial and since the separability test i.e. art must be separable from function test is austere, the AI generated designs fail to get stronger copyright protection compared to art, music or literature where usefulness is not a substantial problem.⁴⁴

C. LEGAL AND ETHICAL CHALLENGES

One of the chief issues is copyright ownership, where AI generated designs raise questions regarding who owns the rights whether AI tool, the designer using it or the brand associated. Another issue is moral rights which protects a creator's personal link to their work, when AI helps create designs, it gets difficult to ascertain authorship. Because copyright laws protect works created by humans many AI generated designs fail to get protection. Another challenge is trademark infringement when AI unintentionally reproduces trademarked elements like signature looks or logos leading to legal distress for brands and developers. Data privacy is yet another issue, where AI styling tools use user's personal data to make suggestions, if this is made without knowledge and permission of user, it violates privacy laws like GDPR.⁴⁵ Image rights poses another risk as AI models can misappropriate people's faces or likeness causing issues for genuine influencers and celebrities. Lastly legal responsibility depends on terms & conditions of AI tool which may decide authorship

⁴⁴ Communications WC, 'Here's How the Fashion Industry Is Using AI' (*Wilson College of Textiles*, 1 August 2024) <<https://textiles.ncsu.edu/news/2024/06/heres-how-the-fashion-industry-is-using-ai/>> accessed 28 June 2025

⁴⁵ Stacy Marcus X Keri Bruce X Emily Faro, 'The Uncharted Legal Frontier of AI in Fashion' (*The Interline*, 18 July 2024) <<https://www.theinterline.com/2023/09/07/the-uncharted-legal-frontier-of-ai-in-fashion/?utm>> accessed 28 June 2025

of output and who is liable if issues arise. Therefore, brands must keep check on fine print.⁴⁶

Ethical challenges include transparency which is crucial. Brands must unambiguously disclose when AI is used in design or models as this is important for consumer trust and avoiding misrepresentation. AI instruments could reflect biases if trained on limited one sided data, they might generate stereotypical designs cancelling out diversity. Furthermore, AI might replace human designers raising questions regarding fair pay and creative value causing loss of employment. Another ethical challenge is authenticity when people discover the design is fully AI crafted, the brand might lose trust. Lastly, AI might risk cultural misappropriation by replicating styles from various cultures without respecting their moral values.⁴⁷

D. NEED FOR ADAPTING IP LAWS

With the advent of AI in fashion there is an increasing need to modernise IP laws to manage challenges it creates. Presently, copyright laws protect manmade works and not AI generated. This creates confusion regarding ownership the copyrighted work for instance who would be held liable if something is copied and how to protect AI aided designs. As AI often learns from large sets of existing data, it raises questions on originality, and the existing laws are not at par with the AI generated designs. And hence, fashion designers may not get adequate legal protection for AI assisted works. Therefore, to sustain technology and product creativity in fashion, the current legislations need to be updated, which could involve making new regulations for AI generated works or altering existing laws.⁴⁸

⁴⁶ Gai Sher AB, 'Artificial Fashion: Ai Poses Risks, Rewards for Players in Apparel' (*The Fashion Law*, 8 February 2024) <https://www.thefashionlaw.com/artificial-fashion-ai-poses-risks-rewards-for-players-in-the-apparel-space/?utm_> accessed 28 June 2025

⁴⁷ AI in Sustainable Fashion Design: Ethical Clothing Alternatives' (*Codemax*) <<https://codemax.app/explore/ai-in-sustainable-fashion-design-ethical-clothing-alternatives/?utm>> accessed 28 June 2025

⁴⁸ McEwen A, 'Article Intelligence in the Fashion Industry' (*University of Pittsburgh Law Review*, 12 April 2024) <<https://lawreview.law.pitt.edu/ojs/lawreview/article/view/1059>> accessed 28 June 2025

VII. CONCLUSIONS AND RECOMMENDATIONS

A. SUMMARY OF KEY FINDINGS

With AI bringing in exciting opportunity in the fashion industry, it also created complex legal issues specifically with IP and copyright laws. AI is modifying how fashion functions from designing clothes and predicting trends to handling stores and supply chains. However, employing present copyright regulations to AI generated designs is challenging specifically in nations like US where the law makes it clear that only humans can be authors, which means that if a design is created solely by AI then it cannot be protected. Yet, if a human adds in his creative inputs then design might qualify for protection. The laws around AI and copyright fashion are still developing and uncertain. There are rolling debates regarding whether use of copyrighted resources to guide AI is legal and if so then who would be liable if AI creates something that replicates existing work. Landmark cases as discussed in previous chapters highlight the legal complications involved. Various states including India, EU and UK are struggling with these issues thereby demonstrating lack of universal harmony in tackling AI created designs.⁴⁹

B. GAPS IDENTIFIED IN INDIAN AND INTERNATIONAL LAWS

Contemporary IP laws globally and in India are inadequate in managing challenges put forth by AI in fashion industry. Copyright laws require humans to be creators, moreover in the US, the copyright office as well as the court rulings held that purely AI generated designs cannot be copyrighted because there is no involvement of human intellect. In EU, few design protection rules might protect designs aided by AI but it is still uncertain if solely AI made designs can be protected. UK is considering legal reforms to deal better with this issue depicting that governments are trying to keep abreast to technology. Indian laws have cybercrimes and design piracy laws, yet

⁴⁹ (Copyright and Artificial Intelligence, part 2: Copyrightability)
<<https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf>> accessed 28 June 2025

there aren't any clear rules as to the protection of fashion designs created entirely by AI, depicting Indian laws are still evolving.⁵⁰

C. PROPOSED REFORMS AND POLICY RECOMMENDATIONS

One of the recommendations in my opinion would be to recognise AI as co-creator or even the central creator in certain cases like in Australia's DABUS patent case. Strong regulations are desired to ascertain the ownership of AI works whether it comes to developer, user or brand that funded it. New rules must be created to protect and compensate artists whose work is used to train AI tools by automatic payments. The US office of Copyrights states that if a human edits or orchestrates AI generated content in a resourceful manner, it can be protected by portraying human input is still key. AI developers must be transparent about the data methods they utilize, this builds trust and encourages better copyright enforcement.

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⁵⁰ Sharma A, 'Legal Battles in AI Fashion Design: Who Claims Ownership?' (*Jus Corpus*, 24 November 2024) <<https://www.juscorpus.com/legal-battles-in-ai-fashion-design-who-claims-ownership/>> accessed 28 June 2025

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