

FASHION AND INTELLECTUAL PROPERTY



TRADEMARKS IN FASHION

One example where trademarks are important in fashion is the “pret-a-porter,” or ready to wear market. Consumers usually identify these items by the name of the designer, such as Gucci or Dior. Designers seek trademarks for these names and products because consumers purchase them for the name and quality associated with them.



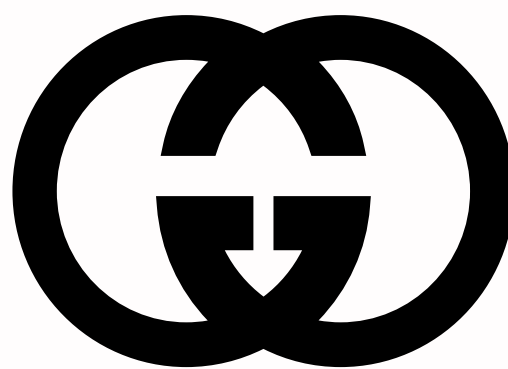
COPYRIGHT IN FASHION

A fashion designer who creates sketches obtains copyright protection for the sketch itself the moment it is created and “fixed in a tangible form.” However, this does not always equate to 100% protection, because the underlying idea is not protected. Copyrights can’t protect “intangible” thoughts.



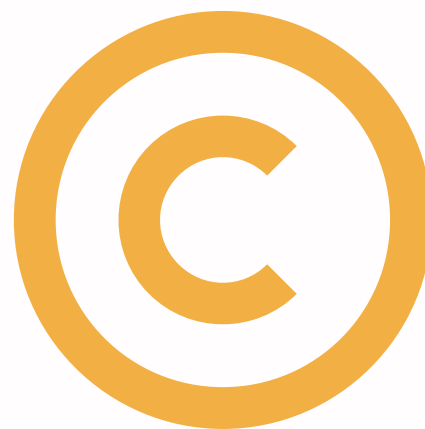
FASHION AND INTELLECTUAL PROPERTY

Creativity can lead to questions regarding protection of intellectual property rights, particularly designs and products. What options and legal avenues are available to individuals who seek to protect their creations?



LOUBOUTIN VS. YVES ST. LAURENT

Another case that reflects the power of trademarks is Louboutin vs. YSL. YSL had created shoes with red soles, much like the famous “red bottoms” of Louboutins. Here, the issue was whether Louboutin could trademark the red soles. This case went to the US Court of Appeals for the Second Circuit, which granted Louboutin the ability to do so.



FASHION AND INTELLECTUAL PROPERTY LOOPHOLES

Loopholes in copyright laws in the US allow for fast fashion brands, such as Forever 21, Fashion Nova, and Urban Outfitters to profit, legally, on garments that look identical to designs created by higher-end brands. Fast fashion business models rely on the ability to quickly recreate luxury trends and celebrity looks at an affordable price point, and often get away with copying other designers without facing legal consequences.