Intellectual Property Protection in the Fashion Industry: Current Trends and Insights for China

by

Chen Yeyu

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SUPERVISOR: Rostam J. Neuwirth

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Acknowledgements

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Abstract

Nowadays, fashion is closely linked with our daily life and work. The fashion industry is no longer just a dress or a pair of shoes, it is a business which earns hundreds billion dollar ever year. Fashion design, which involves aesthetic garment or innovative ornamentation, today constitutes the core of the fashion industry. However, because of the special nature of the fashion industry and its productions, it is not easy for fashion design to be protected under intellectual property rights and it can therefore be said to lack adequate protection in intellectual property (IP) regimes. As a result, there may be several deficiencies or loopholes in the legal regimes for the protection of fashion design.

To identify these deficiencies and possible related problems, this thesis discusses the present state of the protection of intellectual property rights in the fashion industry. To this end, Chapter 1 will give a brief introduction of fashion and the fashion industry. Chapters 2 and 3 will analyze the relevant legal regime at the international level and its wider disparities as exemplified by a brief look at the European Union (EU) and the United States (US), including a brief comparison of the legislative debates focused around the issue of the adequate levels of intellectual property rights protection for fashion design. Chapter 4 will explain the current situation of IP protection in China. Based on the insights from the previous chapter, Chapter 5 will focus on the experiences gained by the different legislative efforts in the EU and the US, and apply the outcome of the analysis of the two regimes and their differences to the situation in the People’s Republic of China (PRC). Finally, it aims at presenting several suggestions and recommendations for possible legislative actions in PRC, on the issues about how to improve the IP protection of fashion design.

Keywords: Intellectual Property, the Fashion Industry, China
Declaration of Authorship

Name of the Student: Chen Yeyu
Student Number: M-B1-50373
Entrance Academic Year: 2011
Program Enrolled: Master and Postgraduate of Law in International Business Law in English language
Name of the Supervisor: Prof. Dr. Rostam J. Neuwirth
Title of the Thesis: Intellectual property protection in the fashion industry: Current Trends and Insights for China

“I hereby declare and confirm that the thesis here submitted is original except for the source materials explicitly acknowledged and that this thesis as a whole, or any part of this thesis has not been previously submitted for the same degree or for a different degree. “

Yours sincerely,

Date: March 3, 2014
Place: Macau

signature:
Name: Chen Yeyu
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<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ACTA</td>
<td>Anti-Counterfeiting Agreement</td>
</tr>
<tr>
<td>CFDA</td>
<td>The Council for Fashion Designers of America</td>
</tr>
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<td>CPPCC</td>
<td>Chinese People's Political Consultative Conference</td>
</tr>
<tr>
<td>DPPA</td>
<td>The Design Piracy Prohibition Act</td>
</tr>
<tr>
<td>IDPPPA</td>
<td>The Innovative Design Protection and Piracy Prevention Act</td>
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<tr>
<td>IP</td>
<td>Intellectual property</td>
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<tr>
<td>IPR</td>
<td>Intellectual property Right</td>
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<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
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<tr>
<td>OHIM</td>
<td>The Office for Harmonization for the Internal Market</td>
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<tr>
<td>RCD</td>
<td>Registered Community Design</td>
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<tr>
<td>TRIPS Agreement</td>
<td>Agreement on Trade-Related Aspects of Intellectual Property Rights</td>
</tr>
<tr>
<td>UCD</td>
<td>Unregistered Community Design</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>US ITC</td>
<td>United States International Trade Commission</td>
</tr>
<tr>
<td>WTO</td>
<td>The World Trade Organization</td>
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