
ABSTRACT

Given the importance of the fashion industry, the intellectual property protection in this industry needs to be studied. In most cases, where copying is common that it has threatened the development or even the survival of the industry, intellectual property law would have to be enhanced to prevent violations of the rights granted. But this may not be the same for the fashion industry. Intellectual property protection in this industry is generally low as fashion items usually have difficulties in obtaining intellectual property protection. In order to identify the reasons why the intellectual property laws usually fail to provide enough protection, international documents as well as national intellectual property laws, including trademark, patent and copyright laws of different jurisdictions, will be analyzed. International conventions and treaties are often said to be actually toothless at national levels. Furthermore, different jurisdictions have different practices and tendencies in the protection of fashion designs whereas trade in this sector is increasingly global.

This thesis will thus focus on the United States (US) and the European Union (EU), which are representative for two major but opposite global regulatory trends. Their practice, reflected in legislative proposals or acts, such as the Design Piracy Prohibition Act, the Innovation Design Protection and Piracy Prevention Act and the Council Regulation on Community Designs might serve as a reference not only for international laws but also for the People's Republic of China (PRC). In this context, China has been criticized for free and common copying. Generally, it is the legal rules and enforcement situation in China that is held responsible for this problem. China could learn from all of the comparative approach and find useful ways so as to enhance its IP system in general and protection for designs of the fashion industry in particular. However, one of the key issues related to the IP protection of products produced by the fashion industry is whether the industry needs the high-IP regime at all or there exist other ways to enhance notably the competitiveness and lucrativity of this branch of industry. Perhaps, a too low-IP regime can no longer guarantee the

right of designers and will lead to widespread copying. Or, on the contrary, a too high-IP regime may lead to a monopoly, hereby reducing the competitiveness of the industries in the markets. Therefore, finding the proper balance is a very important task not only in China, but also in all jurisdictions. This balance is deemed also essential for China in attempts to develop its own fashion industry and to establish domestic brands that are well known on a global scale.



KEYWORDS: Fashion, Intellectual Property, China, Knockoff Economy, Piracy Paradox, Monopoly Theory of Innovation, Balance.

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