



GURINDER & PARTNERS
Guidance with Precision

The Business of Design, Identity & Value



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FASHION & LAW



THE FASHION ECONOMY

The fashion industry in India is developing into a multi layered commercial ecosystem, spanning manufacturing, design, retail, exports, and digital commerce.

India is among the world's largest textile producers and exporters, deeply embedded in global supply chains. Yet, the legal architecture governing fashion remains fragmented across intellectual property, contracts, and emerging regulatory frameworks.

While statutory protections exist, the monetisation and control of fashion assets depend on how rights are structured, protected, and enforced across their lifecycle.



*Design creates value. Law defines ownership.
Contracts determine who captures it.*



LEGAL ARCHITECTURE OF FASHION LAW

Fashion law in India does not exist as a standalone discipline codified within a single statute. Instead, it is constructed through the interplay of multiple legal regimes, primarily the **Copyright Act, 1957**, the **Designs Act, 2000**, the **Trade Marks Act, 1999**, and the **(GI) Geographical**

Indications of Goods (Registration and Protection) Act, 1999. Each of these statutes governs a distinct dimension of fashion, yet their boundaries frequently overlap, leading to interpretational complexities and enforcement challenges.

MATRIX

Right Type	Legal Basis	Functional Scope
Artistic Work	Copyright Act	Sketches, drawings, prints
Industrial Design	Designs Act	Garment shape, patterns applied industrially
Brand Identity	Trade Marks Act	Logos, labels, trade dress
Origin-Based Identity	GI Act	Traditional craft (e.g., Kolhapuri)





THE COPYRIGHT-DESIGN DIVIDE



A defining feature of Indian fashion law is the doctrinal divide between copyright and design protection. While copyright subsists automatically in artistic works, this protection is not indefinite when such works are commercially exploited. Once a design is industrially reproduced beyond a statutory threshold, the law mandates a transition from copyright to design protection, effectively extinguishing copyright claims in the process.

JUDICIAL POSITION

This principle has been judicially crystallized in **Ritika Pvt Ltd v Biba Apparels Pvt Ltd**, where the Delhi High Court held that garments produced on a commercial scale cannot claim copyright protection and must instead rely on registration under design law. Similarly, in **Microfibres Inc v Girdhar & Co**, the Court clarified that fabric patterns,

once applied industrially, fall within the ambit of design law rather than copyright. The distinction was further refined in **Rajesh Masrani v Tahiliani Design Pvt Ltd**, where the Court recognised that while original sketches remain protected as artistic works, garments derived from them may not enjoy the same protection.

The implication is both clear and commercially significant. The law protects the conceptual expression, but the market operates on the finished product. In the absence of design registration, enforcement becomes structurally weak, leaving designers exposed to replication without adequate legal recourse.



BRAND OVER DESIGN

Unlike design protection, trademarks offer enduring value. They are renewable indefinitely and evolve into the primary commercial asset of a fashion business. Over time, the brand eclipses the product.

In *Christian Louboutin SAS v Nakul Bajaj*, the Court recognised the importance of brand identity and extended liability to digital platforms facilitating infringement. This reflects a broader legal shift towards protecting reputation and distinctiveness, rather than merely the physical product.



*Design is seasonal.
Brand is compounding.*

GEOGRAPHICAL INDICATIONS AND TRADITIONAL FASHION

India's fashion identity is deeply tied to regional craftsmanship. Products such as Kolhapuri chappals are protected under the Geographical Indications of Goods (Registration and Protection) Act, 1999, linking them to origin and authenticity.

However, recent instances of global replication highlight a structural limitation. While the law protects geographical identity, it does not adequately prevent international commercial exploitation. Enforcement remains jurisdictionally complex, and artisan communities often lack economic control.





MORAL RIGHTS AND DESIGNER IDENTITY

Beyond economic rights, Indian law recognises the importance of artistic identity through the doctrine of moral rights. **In *Amar Nath Sehgal v Union of India***, the Delhi High Court held that the destruction or mutilation of an artwork constitutes a violation of the artist's moral rights, and that such rights survive the transfer of ownership.



In the context of fashion, this principle assumes relevance in high-value collaborations, couture creations, and designer-led brands, where authorship and attribution form an integral part of the product's identity.

Even where economic rights are assigned or transferred, the creator retains a continuing legal interest in how the work is represented and preserved.

THE CONTRACTUAL SHIFT

While statutes define initial ownership, contracts determine actual control. Employment relationships, commissioned works, and assignments routinely shift rights away from creators. The result is a system where legal entitlement is less decisive than contractual structuring at the point of creation.

This makes early stage legal structuring the most critical point of value capture in the fashion lifecycle.



CIRCULAR FASHION AND THE SHIFT IN LEGAL THINKING



Global developments in sustainability are beginning to reshape the legal discourse in fashion. The transition towards a Circular Economy introduces a fundamental shift from linear consumption models to systems focused on reuse, recycling, and lifecycle extension.

This shift operates along two dimensions. The first seeks to prolong the life of products through durability and repairability, while the second focuses on closing the loop through recycling and reverse logistics. Together, these models challenge traditional notions of ownership and introduce new legal questions around liability, traceability, and post-consumption responsibility.



In India, this area remains largely underdeveloped. There is currently no dedicated regulatory framework governing circular fashion, textile waste management, or reverse supply chains. However, Indian business operating in

global markets are increasingly subject to sustainability driven compliance requirements, particularly from jurisdictions such as the European Union.

Future legal exposure will extend beyond the point of sale, requiring businesses to account for the environmental and material lifecycle of their products. Contracts will play a central role in this transition, incorporating obligations related to recycling, take-back mechanisms, and supply chain transparency.



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www.gurinderpartners.com

59 Hemkunt Colony, | +91 11 46557370
Greater Kailash-I, New Delhi-110048 | contact@gurinderpartners.com