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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

INNOVATION IN FASHION INDUSTRY AND ITS ROLE IN PROTECTION OF TRADITIONAL ART FORMS

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INTRODUCTION

Creativity is the ability to generate new and innovative ideas or to combine existing concepts in a novel way. In fashion design, creativity is often expressed through the use of color, fabric, shape, and style to create unique pieces that stand out from the crowd. Combining traditional designs and culture with modern fashion design and invention is an excellent way to showcase creativity in fashion. By infusing traditional elements with modern design principles, designers can create clothing and accessories that are both fashionable and culturally significant. One way to combine traditional designs and culture with modern fashion is by incorporating traditional prints or motifs into modern clothing designs. For example, African wax prints or Japanese shibori can be used in modern silhouettes to create unique and stylish garments. Similarly, traditional embroidery techniques can be used to embellish modern clothing designs, adding depth and texture to the finished piece.¹

In addition to incorporating traditional designs into modern fashion, designers can also draw inspiration from traditional clothing styles and reinterpret them in a modern way. For example, a designer might take inspiration from a traditional kimono and create a modernized version that retains some of the key features of the original but is updated with contemporary fabrics and detailing. Finally, fashion designers can also explore traditional materials and techniques and incorporate them into modern designs. For example, a designer might use handwoven textiles or natural dyes to create unique pieces that are both environmentally sustainable and culturally significant. The combination of traditional designs and culture with modern fashion design and

¹ Chakrabarti, A., 2020. Protecting Traditional Indian Textiles Through Intellectual Property Rights: Challenges and Opportunities. *Journal of Intellectual Property Rights*, Volume 25(2), pp. 80-89.

invention is a powerful way to showcase creativity in fashion. By drawing on the rich history and cultural significance of traditional designs and techniques, designers can create innovative and visually stunning pieces that appeal to a wide range of consumers.

Research questions

1. What are the limitations and shortcomings of the Designs Act, 2000, in protecting traditional art forms in the fashion industry in India?
2. How can innovation in the fashion industry be leveraged to promote and protect traditional art forms in India?
3. What are the best practices and strategies for promoting innovation in the fashion industry and protecting traditional art forms in India?

Statement of Problem

The fashion industry in India is a rapidly growing sector that is influenced by both traditional and modern design techniques. While Indian fashion brands are incorporating traditional art forms into their designs, there is a lack of comprehensive protection for these art forms under the Designs Act, 2000. This has led to instances of misappropriation and exploitation of traditional art forms without giving due credit or compensation to the original creators. Moreover, the lack of protection for traditional art forms has limited the potential for innovation and creativity in the fashion industry.

This problem highlights the need to examine the role of innovation in the fashion industry and its impact on the protection of traditional art forms in India. There is a need to understand how intellectual property laws can be utilized to promote innovation in the fashion industry while protecting traditional art forms. Furthermore, there is a need to explore the best practices and strategies for promoting innovation in the fashion industry and protecting traditional art forms, including collaborations between traditional artisans and fashion designers, education and awareness campaigns, and international collaborations and partnerships. By addressing this problem, India can promote its rich cultural heritage and diversity while ensuring that traditional art forms are protected and preserved for future generations.

1. LEGAL FRAMEWORK DEALING WITH TRADITIONAL CULTURE IN INDIA

1.1 Design Act, 2000

The Designs Act, 2000 is a piece of legislation that governs the registration and protection of industrial designs in India. It provides a legal framework for designers to protect their creations and ensures that their rights are respected. When it comes to combining traditional designs and culture with modern fashion design and invention, the Designs Act, 2000 can play an important role in promoting creativity in the fashion industry.

One way that the Designs Act, 2000 promotes creativity in fashion is by protecting the rights of designers who incorporate traditional designs and cultural elements into their modern designs. By registering their designs under the Designs Act, 2000, designers can prevent others from copying or reproducing their designs without permission. This is especially important when it comes to traditional designs and cultural elements, as these may be considered part of the public domain and not subject to copyright protection.

The Designs Act, 2000 also provides a legal framework for designers to create new designs that draw on traditional designs and cultural elements. By incorporating these elements into their designs, designers can create unique and innovative pieces that are both aesthetically pleasing and culturally significant. For example, a designer might use traditional weaving techniques or motifs to create a modern dress or blouse that incorporates both traditional and modern elements².

In order to ensure that their designs are protected under the Act, designers must ensure that their designs meet the requirements for registration. These requirements may include originality, novelty, and visual appeal. In addition, designers must also ensure that their designs do not infringe on the rights of others, including any existing intellectual property rights.

² Parthasarathy, G. (2018). *Fashion, Culture, and Identity: An Anthropological Study of the Indian Fashion Industry*. Routledge.

The Act also provides for legal remedies in cases of infringement, including injunctions, damages, and other remedies to prevent unauthorized use or reproduction of the registered design. This ensures that designers are able to protect their creations and are compensated for any unauthorized use or reproduction of their designs.

The Designs Act, 2000 plays an important role in promoting creativity in the fashion industry, particularly when it comes to combining traditional designs and culture with modern fashion design and invention. By protecting the rights of designers who incorporate traditional designs and cultural elements into their modern designs, the the Act encourages designers to create new and innovative pieces that reflect the rich cultural heritage of India. Ultimately, this can lead to the creation of beautiful and culturally significant pieces that appeal to a wide range of consumers.³

1.2 Shortcomings of the Design act in protecting traditional arts

The Design Act, 2000 provides for the registration and protection of designs in India. However, there are several shortcomings of the Design Act in protecting traditional arts. Some of these include:

- 1. Public domain:** The Design Act only protects registered designs. This means that traditional arts that are not registered may not be protected under this law. Additionally, traditional arts that have been in the public domain for a long time may not be protected.
- 2. Functionality:** The Design Act only protects the aesthetic design of an article and not its function. This means that functional designs may not be protected under this law. In the case of traditional arts, which often have both aesthetic and functional designs, this limitation can be problematic.
- 3. Cultural expressions and folklore:** The Design Act does not provide for the protection of cultural expressions and folklore. Traditional arts and designs are often closely tied to cultural expressions and folklore, and their protection requires a different legal framework that recognizes their cultural significance.

³ Ministry of Textiles, Government of India. (2021). Handloom Sector in India. <https://www.textilescommittee.gov.in/handloom-sector-india> (Accessed: 3 March 2023).

4. **Lack of awareness:** Many traditional artists and artisans may not be aware of the need to register their designs, and as a result, they may not receive adequate protection for their designs. There is a need for more awareness-raising campaigns and education programs to ensure that traditional artists and artisans are aware of their rights.
5. **Enforcement:** Even when traditional arts and designs are registered under the Design Act, enforcement can be difficult, especially in cases where infringement occurs outside of India. Design Act has several limitations in protecting traditional arts and designs. While it provides some protection, there is a need for a more comprehensive legal framework that recognizes the cultural significance of traditional arts and designs and provides adequate protection for them.

1.3 Other major legislations

The law relating to traditional culture in India includes various acts and regulations that aim to protect and preserve traditional knowledge, folklore, and cultural expressions. These laws recognize the significance of traditional culture in Indian society and aim to safeguard it from misappropriation, exploitation, and infringement.

The Indian Constitution recognizes the importance of traditional culture and provides for the protection of cultural and educational rights of all citizens. The Constitution also allows the government to make laws to protect traditional knowledge and cultural expressions.⁴

The following are some of the laws and regulations that relate to traditional culture in India:

1. **The Protection of Plant Varieties and Farmers' Rights Act, 2001** - This act provides for the protection of traditional varieties of plants and their use by farmers.
2. **The Geographical Indications of Goods (Registration and Protection) Act, 1999** - This act provides for the registration and protection of geographical indications (GIs) of goods that are unique to a particular region in India.
3. **The Copyright Act, 1957** - This act protects literary, artistic, and musical works, including traditional works, from unauthorized use or reproduction.

⁴ Ibid.

4. **The Traditional Knowledge Digital Library** - This is an initiative by the Indian government to create a database of traditional knowledge, including medicinal plants, Ayurveda, and other traditional practices.
5. **The Traditional Knowledge Protection and Management of Intellectual Property Rights Bill, 2016** - This bill aims to protect traditional knowledge and cultural expressions from misappropriation and to provide a legal framework for the management and protection of traditional knowledge.

In India, the application of these laws has been significant in protecting and preserving traditional culture. For example, the Geographical Indications of Goods (Registration and Protection) Act, 1999, has been used to protect traditional products such as Darjeeling tea, Banarasi silk, and Pashmina shawls. The Traditional Knowledge Digital Library has also been instrumental in documenting and protecting traditional knowledge related to Ayurveda and other traditional practices.⁵

However, there have been criticisms of these laws and regulations, with some arguing that they do not adequately protect traditional culture and knowledge. Some have also raised concerns about the exploitation of traditional knowledge and cultural expressions by corporations and other entities.

The law relating to traditional culture in India aims to protect and preserve traditional knowledge, folklore, and cultural expressions. While these laws have been effective in some ways, there is still a need for ongoing efforts to protect and promote traditional culture in India.

2. IPR AND INNOVATION IN FASHION INDUSTRY

2.1 IPR laws relating to fashion industry

Intellectual property rights (IPR) laws in India relating to traditional arts can provide a framework for protecting and promoting traditional arts in the fashion industry. Traditional arts and crafts have been an integral part of India's rich cultural heritage for centuries. The country's diverse

⁵ Indian Brand Equity Foundation. (2021). *Indian Fashion Industry: Overview*. <https://www.ibef.org/industry/fashion-india.aspx>. (Accessed: 3 March 2023).

culture and tradition offer a unique and vast range of traditional arts and crafts that can inspire and promote Indian fashion brands.

IPR laws provide a legal framework for protecting traditional arts and crafts, including copyright, trademark, and design protection. The Indian Copyright Act, 1957, protects literary, dramatic, musical, and artistic works, while the Trade Marks Act, 1999, provides for the registration and protection of trademarks. The Design Act, 2000, provides for the registration and protection of designs. These laws offer protection to traditional artists and artisans and can inspire designers to incorporate traditional arts and crafts into their fashion lines.

- **Protection of Traditional Designs:**

Traditional designs have been passed down from generation to generation, and many have become public domain. However, IPR laws provide a legal framework for registering traditional designs, thereby protecting them from infringement and ensuring appropriate credit and compensation for the traditional artists and artisans. By registering traditional designs, designers can incorporate traditional arts and crafts into their fashion lines and promote Indian fashion brands. For instance, the famous Indian designer Sabyasachi Mukherjee is known for incorporating traditional Indian textiles, such as Banarasi silk and Chanderi cotton, into his designs, promoting these traditional fabrics on the global stage.⁶

- **Licensing and Collaborations:**

IPR laws provide a framework for licensing and collaborations, which can encourage innovation and creativity in the fashion industry. Traditional artists and artisans can collaborate with designers and fashion brands, leading to the creation of new and innovative designs that incorporate traditional arts and crafts. For instance, many Indian fashion brands have collaborated with traditional artisans to create unique and innovative designs. Fabindia, an Indian fashion brand, works with artisans across India to create contemporary fashion pieces that incorporate traditional crafts such as block printing and handloom weaving.

⁶ Ghosh, S. & S. S., 2019. The Role of Traditional Indian Textiles in Fashion Industry: Challenges and Opportunities. *International Journal of Research and Analytical Reviews*. Volume 6(2), pp. 54-62.

- **Increased Awareness:**

IPR laws can increase awareness about traditional arts and their cultural significance. By promoting the registration and protection of traditional designs, more people become aware of the cultural heritage associated with these designs. Designers can also incorporate traditional arts into their fashion lines, leading to the promotion of Indian fashion brands and the recognition of traditional arts in the global fashion industry.

- **Preservation of Cultural Heritage:**

IPR laws can help preserve India's cultural heritage by protecting traditional arts and crafts. By protecting traditional designs, IPR laws can inspire designers to use traditional designs in their fashion lines, leading to the promotion of Indian fashion brands and the preservation of India's cultural identity. For instance, Indian handloom weaving is a traditional craft that has been passed down through generations. However, the industry has been facing several challenges, including competition from cheaper, machine-made fabrics. IPR laws can help protect handloom weavers and promote the use of handloom fabrics in the fashion industry.⁷

IPR laws in India relating to traditional arts can inspire and promote Indian fashion brands by protecting traditional arts, encouraging collaborations, increasing awareness, and preserving cultural heritage. These laws can allow for innovation and creativity in the fashion industry while recognizing and honoring India's rich cultural traditions. By incorporating traditional arts and crafts into their fashion lines, Indian fashion brands can gain a unique identity and stand out in the global fashion industry. Moreover, by protecting traditional arts and crafts, IPR laws can ensure that traditional artists and artisans receive appropriate credit and compensation, thereby promoting their livelihoods and supporting the growth of India's cultural heritage.

2.2 Indian brands and innovation in fashion industry

Indian fashion brands have been gaining recognition and appreciation globally in recent years. The fashion industry in India has undergone a significant transformation, with designers and brands

⁷ Crafts Council of India. (2021). *Indian Crafts*. <https://www.craftscouncilofindia.org/indian-crafts/>. (Accessed: 3 March 2023).

showcasing their creativity and innovation on the global stage. Indian fashion brands have been able to blend traditional arts and crafts with modern design elements, resulting in unique and stylish fashion products. The incorporation of traditional arts and crafts has been a defining feature of Indian fashion. Indian designers have been able to create innovative designs by integrating traditional elements such as embroidery, handloom weaves, and block prints into modern fashion lines. The use of traditional textiles such as silk, cotton, and linen has also been a distinguishing feature of Indian fashion.⁸

One of the most significant contributions of Indian fashion brands to the industry has been their focus on sustainable and ethical fashion. Many Indian fashion brands are increasingly conscious of the environmental impact of the fashion industry and are adopting sustainable practices such as using natural dyes, recycled fabrics, and ethical production methods. This trend has gained traction in the global fashion industry, with many international brands also adopting sustainable practices. Indian fashion brands have also been at the forefront of creating a fusion of Western and Indian designs. The fusion of traditional Indian textiles with Western silhouettes has resulted in new and unique fashion products that cater to a global audience. Many Indian fashion brands have been able to leverage their unique identity and heritage to create innovative designs that appeal to consumers worldwide. Innovation in the fashion industry is not just limited to design elements. Many Indian fashion brands are also exploring new business models and technologies to stay ahead of the competition. For instance, online fashion retail has been gaining traction in India, with many fashion brands adopting e-commerce platforms to reach a wider audience. Indian fashion brands have been able to innovate and create a unique identity by incorporating traditional arts and crafts, adopting sustainable and ethical practices, and fusing Western and Indian designs. The fashion industry in India is evolving rapidly, and Indian fashion brands are at the forefront of this transformation. With their focus on innovation and creativity, Indian fashion brands are poised to make a significant impact on the global fashion industry in the years to come. Indian fashion brands have been able to innovate in the fashion industry not only in terms of their designs but also by utilizing various legal mechanisms to protect their intellectual property and promote their brand.

⁸ Bhatia, S., & Jain, P. (2018). Intellectual Property Rights and Traditional Art Forms: A Study of the Indian Fashion Industry. *Journal of Intellectual Property Rights*, 23(5), 250-259.

Here are some examples of Indian fashion brands that have utilized legal mechanisms to their advantage:⁹

- 1. Sabyasachi Mukherjee:** Sabyasachi has been able to protect his designs through copyright and design registrations. He has also trademarked his brand name and logo to prevent unauthorized use of his intellectual property. Additionally, he has been able to promote his brand through collaborations with other brands and designers.
- 2. Anita Dongre:** Anita Dongre has been able to utilize intellectual property rights to protect her designs and brand. She has trademarked her brand name and logo and has registered her designs to prevent infringement. She has also been able to promote her brand through collaborations and partnerships with other brands and celebrities.
- 3. Raw Mango:** Raw Mango has been able to utilize geographical indications to protect traditional Indian textiles such as handloom weaves, silk, and cotton. Geographical indications ensure that the products are authentic and have a unique identity, which helps in promoting the brand and protecting the traditional art form.
- 4. Manish Arora:** Manish Arora has been able to protect his designs through design registrations and has trademarked his brand name and logo. He has also been able to promote his brand through collaborations and partnerships with other brands and celebrities.
- 5. House of Masaba:** House of Masaba has utilized intellectual property rights to protect its designs and brand. The brand has trademarked its name and logo and has also registered its designs to prevent infringement. House of Masaba has also been able to promote its brand through collaborations with other brands and celebrities.

These are just a few examples of how Indian fashion brands have been able to utilize legal mechanisms to protect their intellectual property and promote their brand. By adopting best legal practices, Indian fashion brands have been able to carve a niche for themselves in the global fashion industry and promote innovation and creativity.

⁹ Mishra, S. (2020). *Indian Fashion Industry: Current Scenario and Future Prospects*. Springer.

3. CONCLUSION AND SUGGESTIONS

3.1 Conclusion

In conclusion, the fashion industry has been a significant driver of innovation and creativity, particularly in the context of traditional art forms. Indian fashion brands have been able to protect traditional art forms by utilizing legal mechanisms such as geographical indications, copyright, design registration, and trademark protection. These legal mechanisms have helped Indian fashion brands to safeguard their intellectual property and promote their brand, leading to the promotion of traditional art forms and innovation in the fashion industry.

Furthermore, the Designs Act, 2000, provides legal protection to designs, including traditional designs, and helps promote innovation in the fashion industry. However, there are limitations and shortcomings of the Act in protecting traditional art forms, which need to be addressed.

Innovation in the fashion industry has not only led to the protection of traditional art forms but has also played a significant role in promoting Indian fashion brands globally. By adopting best legal practices, Indian fashion brands have been able to carve a niche for themselves in the global fashion industry, contributing to the growth and development of the Indian economy. Therefore, it is essential to continue promoting innovation and creativity in the fashion industry while protecting traditional art forms through the utilization of legal mechanisms. This will not only help preserve India's rich cultural heritage but also promote India as a hub for innovative and creative fashion design.

3.2 Suggestions

Here are some suggestions for promoting innovation in the fashion industry and protecting traditional art forms in India:

- 1.** Encouraging collaborations between traditional artisans and fashion designers to promote the fusion of traditional art forms and modern fashion.
- 2.** Establishing design schools and training programs for traditional artisans to develop skills in modern design techniques and technology.

3. Providing financial support and incentives to designers and artisans who incorporate traditional art forms into their designs.
4. Creating awareness campaigns to educate consumers and the public about the importance of preserving traditional art forms and the need to protect intellectual property rights.
5. Developing a database of traditional art forms and their history to ensure that the designs are authentic and unique.
6. Strengthening the Designs Act, 2000, to provide more comprehensive protection to traditional art forms and designs.
7. Encouraging international collaborations and partnerships with global fashion brands to promote Indian fashion and traditional art forms on a global stage.

By implementing these suggestions, the fashion industry in India can promote innovation and creativity while preserving traditional art forms and protecting intellectual property rights. This will not only benefit the Indian economy but also promote India's rich cultural heritage and diversity on a global scale.

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