

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 3 | Issue 6

2021

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Plight of Indigenous Designers in Fashion Industry

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ABSTRACT

Fashion has a long history, it did not evolve all of a sudden, with constant trials and errors, the fashion has changed all the way around. Fashion is a channel for inventive expression and a replication of individual and cultural identity. Indigenous Fashion by the name means clothing, fashion, accessories belonging to a particular country, region, or native to a specific culture. The term originated in the North America, where culture and history had a major role in clothing. The indigenous designers incorporate their motifs, customary materials into their wearable artworks, providing a basis for creating items for the haute couture and international fashion markets that have been adapted as latest fashion brands these days. Women in these communities were primarily the designers as well as makers. Fashion designers have been borrowing stylistic elements from other cultures for centuries. Inspiration and imitation goes hand in hand when it comes to fashion industry. The indigenous community face theft of their designs and work because they are pleasing, beautiful and are less famous, so the chances of the big designers of being caught becomes low. In recent years, the extent to which fashion designers have profited from incorporating these cultural designs without giving due acknowledgement to their origin has been amplifying point of contention. Thus, this paper attempts to bring out the reality of Indigenous Fashion in India, U.S.A.

I. INTRODUCTION

Fashion has a long history, it did not evolve all of a sudden, with constant trials and errors, the fashion has changed all the way around. What is fashionable today might not be acceptable in the past, similarly what was fashionable yesterday might not suit in the generation today. Fashion is a channel for inventive expression and a replication of individual and cultural identity.

Indigenous Fashion by the name means clothing, fashion, accessories belonging to a particular country, region, or native to a specific culture. The term originated in the North America, where culture and history had a major role in clothing.

Be it the Africans, Americans or Tribal Indians, indigenous fashion is more than just fashion to them (Nanda G. , 2019). This fashion is represented by their culture and heritage. The

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term culture here means “the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs” (UNESCO, 2001). The indigenous designers incorporate their motifs, customary materials into their wearable artworks, providing a basis for creating items for the haute couture and international fashion markets that have been adapted as latest fashion brands these days (Nanda G. , 2019). The designs incorporated by them are mostly the result from techniques like beadwork, quillwork, leather, textile arts (weaving, twining, and tufting).

Indigenous fashion designers are very resourceful, they use all the materials that are available to them. From the skin of animals, to leaves, to fibrous materials they use everything to make their dresses and accessories to make them look presentable and good. This does not end here they also used beads, shells, stones, thread to make jewelry as well as dress.

Women in these communities were primarily the designers as well as makers. They would sort out and prepare the skins they would use in clothing. Designing and making clothes is not just a task for the women of this community but it was their need and symbol of love for their loved ones. They used to adorn and decorate the dresses and accessories honoring their family members by using objects representing their occupation. So, for them it was not about name, fame and money but a daily need and free time hobby. From possum skin cloaks, booka kangaroo capes, shell necklaces have always been a fascinating

aesthetics of the indigenous design. Indigenous design is rooted to sustainability, but they do not harm nature in any way. They use resources to the extent they need and nothing harm is caused.

II. INSPIRATION V. IMITATION

As said by Mark Twain “*There is no such thing as a new idea. It is impossible. We simply take old ideas and put them into a mental kaleidoscope. We give them a turn and they make new and curious combinations. We keep on turning and making new combinations indefinitely; but they are the same old pieces of colored glass that have been use through all the ages.*”

According to Mark Twain, there is nothing as such original work. It is impossible to have original work. We all are either inspired by someone’s work and we redefine it in our way or we just blatantly copy the entire creation which does not belong to us. In the fashion industry inspiration and imitation are common words but, there is a very thin line between being inspired by someone’s work and copying the work of others. Inspiration is the key step to innovation; we all get inspired at some point of time from someone or things around us.

Inspiration is always around us- the nature, famous personalities, the big brands, visual platforms, the media we consume every day (Sugaya, 2020). We are inspired to create, transform, and fuse the concepts to fit our desirable needs (Sugaya, 2020). On the other side we have heard a lot of stories of copying too. The big brands and designers, imitate the work of less

popular works and take the credit on their name. The best suited examples are:

- **I ♥ NY:** This is one of the most widely used logo in the world designed by Milton Glaser. It was designed by Glaser for an agency to promote tourism in New York's in 1977. After several years this iconic heart has gained millions of dollars and been imitated by several groups because it was not protected under IP laws. Today every city and state own this logo with slight change like I ♥ Ranchi, I ♥ Patna, I ♥ Jamshedpur.

- **Vlada Haggerty v. LVMH:** The US based photographer and make-up artist was specialized in dipping lip makeup. LVMH is a world's biggest luxury brand having a make-up brand MUFE. MUFE also created their own version for using the logo for their lustrous cosmetic line. The logo used by MUFE was an imitation of the logo developed by Haggerty.

- *"Gian Franco Ferre, a famous Italian designer who was appointed as Artistic Director of Cristian Dior in 1989. He made many trips to India, during 1973 trip to India he got the chance to visit every part of India and study local craftsmanship. He literally fell in love with India and was influenced with several artistic and craft work. For the Winter Fall of 1988 and 1989 he took inspiration from the design of shawls of Kashmir and reproduced them on light organza fabrics, by Indian artists"* (Pozzo, 2020).

- *"In the year 2010, Jean Paul Gautier dedicated his Spring/Summer catwalk to Andean cultures, to the heritage of Incas and Mayas, by reinventing somberos, mariachis*

trousers and sandals cut from cowboy boots" (Pozzo, 2020).

Ideas flow and are reinvented in fashion industry like any other industry. All these examples, in fact show that designers may be inspired by a foreign culture and are able to re-elaborate it in a new fashion (Pozzo, 2020). A work can be reinvented with acknowledging and crediting the source of inspiration, but just copying it without permission, credit can't be inspiration in any way.

Fashion designers have been borrowing stylistic elements from other cultures for centuries (Vezina, 2019). When we see anything creative, we like it and we create our own version of it, this is what inspiration is, but when we see something, we like it and copy that work without much efforts of originality are called imitation. Copying happens because of the pressure of deadlines, competition to be best, laziness in a person to work, etc. People think that when they copy from sources that are lesser known or are cross border, the chances of being exposed and getting caught is low.

This is the plight that occurs mostly in fashion industry. The big brands copy or imitate the work of less popular brands or the works of indigenous community. The indigenous community face theft of their designs and work because they are pleasing, beautiful and are less famous, so the chances of the big designers of being caught becomes low. The people of these community are not well educated so they are not aware about the IP rights to protect their work. The lack of knowledge and awareness about the rights

among these groups has led them lose the authenticity of their work.

Many famous designers and brands around the globe have claimed openly that they have taken inspiration from the cultural expressions and knowledge from other tribes. But the inspiration should not cross the line to hurt the sentiments and culture of the community. Drawing a line between inspiration and copying is very important because traditional designs is not just about clothing or ornaments but is infused with certain meanings and play a major part in their identification. Copying Designs without consideration for their underlying cultural significance can erode the identity of the whole community (Vezina, 2019).

In recent years, the extent to which fashion designers have profited from incorporating these cultural designs without giving due acknowledgement to their origin has been amplifying point of contention (Mahajan, 2021). The world wants the fashion designers to be mindful when drawing inspiration or borrowing from other cultures and to offer products that are respectful to the indigenous designers and their traditions (Vezina, 2019). The term “cultural appropriation” is covered under the debate of inspiration v. imitation and IP laws certainly needs to focus on this.

Before focusing on cultural appropriation, we need to understand what is traditional knowledge and traditional cultural expression. The two terms need a special focus because they play a very significant role in indigenous fashion and designs. The member of these communities is

traditionally rich in their knowledge and cultural expressions.

III. TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSION

Traditional Knowledge is a thriving and living body of knowledge that is developed, sustained and passed on from one generation to the other generation, helping from cultural and spiritual identity of the community such as practices, skills, know-how (Moisin & Deshmukh, 2020). This knowledge is expressed in tangible and intangible forms by any person or group of persons known as Traditional Cultural Expressions (TCEs). The examples of TCEs include expressions of folklore (dance, art, music, designs, jewelry, handicraft, architectural forms etc.)

“The World Intellectual Property Organization (WIPO) pointed out that traditional cultural expressions comprise a number of forms that are to be considered as a part of the identity and heritage of the relevant community as passed from generation to generation” (Balice, 2016). This might consist not only in songs and ceremonies but also and more importantly for the fashion industry in design, signs, symbols, handicrafts or other similar artistic expressions” (Balice, 2016). TCEs are integral to the cultural and social identities of indigenous and native communities, embody know-how and skills, and transmit core values and beliefs (Shwetaptated, 2020). The TCEs needs to be protected for promoting creativity, cultural diversity and cultural heritage.

The definition of TK and TCEs clearly explains that they build, protect and sustains the people of the community and hence they are very important to them. TK as well as TCEs ensure that groups are well represented in this era of development but it also comes with vices. Many industries including the fashion industry are trying to exploit it for commercial benefit, thereby misappropriating (Sivarajah, 2020).

The fashion industry has misappropriated the heritage vested in this community in the form of TK and TCEs in the form of cultural appropriation. Therefore, before understating cultural appropriation it was very important for us to understand what these two terms are.

IV. CULTURAL APPROPRIATION

Cultural Appropriation can be described as the act by a member of a relatively dominant culture taking a TCEs and repurposing it in a different context, without authorization, acknowledgement and/or compensation, in a way that causes harm to the TCEs holders (Moisin & Deshmukh, 2020). In a more precise language “Cultural Appropriation” is adoption or the theft of icons, rituals, aesthetic standards, behavior of one culture or subculture by another. It is generally done by the people who are in a higher position and the work is of minority person or culture. It is taking away of Intellectual Property, cultural expression, art-crafts, history and the knowledge of one person or community without their consent or without giving them due credit. E.g., Picasso famously appropriated motifs that originated in the work *Les Demoiselles d’Avignon* of African carvers (Young, 2008).

Prior to the year 2010 the term cultural appropriation was rarely known, but the with the development on the verge changes have become rapid. In a google search made in the year 2019 it was found that almost 2.9 million instances of cultural appropriation are there. The TCEs are left out from being protected under our IP laws which make them available for use by public who even misuse it and cause appropriation.

The history of fashion industry appropriating the culture of minorities had resurfaced at each Fashion Week. From the Paris fashion week, to the interior displays of common retail stores all over the world, the use of traditional native stitching, woven patterns, beading, fringing, and feathering, has been a notable and controversial issue throughout the industry and corresponding media coverage (Roche, 2016). A large part of people enjoys printed and dyed apparels who want something that is beautiful as well as simple and comfortable to their skin, thus this leads to number of designers using indigenous and traditional crafts such as tinting, block printing, and embroidery technique for creation of new designs as well as structures to create new designs and structures. The olden methods of phulkari, chikankari, kantha and other forms of sewing and cutting are still used today which keep the indigenous fashion and work still alive in the fashion industry.

A designer should know that there is a border line difference between drawing inspiration and imitating the work of this community. Copying the work of indigenous community often results in disrespecting them. The big brand owner designers from Zara to H &M everyone has been

accused of cultural appropriation. The concept of appropriation in the fashion industry is not new, it existed from centuries. During 17th century, English and French aristocrats adopted the three-piece suit from traditional ensemble of Islamic countries (Srivastava, 2021). Similarly, English Regency era dandies adapted the Indian churidars into slim-fitting pants (Srivastava, 2021). In the year 2011, Karl Lagerfeld, the late creative director of the famous brand Chanel created the Paris Bombay Metiers D Art collection taking inspiration from aesthetics of India, saree drapes, Anarkali and salwar kameez, along with models walking down the runway in bindi, naths, maang-tikas, hath-phools, dreadlocks, etc. (Srivastava, 2021). Even in 21st century the western cultured designers are selling the traditional cultured designs in the name of boho styles particularly.

There are numerous examples of designers appropriating the work of indigenous communities. Some of them are as follows:

- **Masai Tribes of Kenya and Tanzania v. Louis Vuitton:** In 2011 Kim Jones made a debut for his for LV with his menswear collection. The collection was an inspiration drawn from Africa. The Masai are a traditional group from southern Kenya and northern Tanzania. The collection introduced by Jones had prints that belonged to this community without their consent or permission.

- **Nike Air Force 1 Puerto Rico and the Guna Culture:** In the year 2019 an announcement for launch of “Air Force 1 Puerto Rico” sneakers which boosted the pattern named Mola belonging to the Guna (Panama and

Columbia) was made by Nike. Mola is a Traditional Cultural Expression of Panama. It was wrongly mentioned by Nike that this Mola pattern originated from Puerto Rico. They faced a lot of backslashes from representative of Guna, which resulted in cancellation of launch of the sneakers.

- **Mixe vs Isabel Marant vs Antik Batik:** Mixe people are indigenous people of Mexico. In 2015 fashion designer Isabel Marant in her new collection presented a blouse with graphic elements similar to the blouse of the Mixe of Santa Maria Tlhuitoltepec. This design belonging to Mixe was not just copied by Isabel Marant but it was also claimed by the French fashion company Antik Batik to be the legal owner of the rights to its design. An action was brought against the designer before the French Courts. The French Court stated that neither Batik nor Marant can claim the rights as it originated from Mixe Communities.

- In **Masai Tribe** case, luxury fashion brands such as LV, Calvin Klein, Ralph Lauren, all have used iconography for selling their products and also many fashion houses have used their names too with minor alterations as a trademark.

- **Northern Cheynne/Crow:** In February 2015, an indigenous blogger named Adrienne Keene published a scathing design on a plagiarist New York Fashion Week collection that featured several replicated designs by indigenous designer Bethany Yellowtail of the Crow people. The fashion brand KTZ was held responsible for the appropriation of these designs. The story went viral on the social media and Yellowtail

took a stand for the claims of cultural theft, systematic erasure of indigenous peoples through fashion, severe lack of integrity.

Across the fashion industry a hell lot of top fashion designers have been accused for cultural appropriation. In 2015 Isabel Marant, in 2016 Gucci, in 2017 Vogue, in 2019 Dior and recently brands like Zara, Patowl, Anthropologie. The Culture Ministry of Mexico has claimed that the brands are using design and pattern from the indigenous group without their consent and without providing benefit to the community. Also, few weeks ago the Culture Minister of Mexico Alejandra Frausto Guerrero stated that the country would no longer allow brands and designers to take from their culture without giving the source and culture honor and credit.

The connecting thread between all the above examples of cultural appropriation is that in fashion the consent or permission from the indigenous designers is equally important for the brand and designers. There is hardly any element of novelty or originality in their prints and designs, they just copy it directly without their knowledge or their consent.

Fashion designers can engage with other cultures and use traditional cultural expressions without falling into the cultural appropriation trap by following four basic principles (Vezina, 2019):

- a) Understanding and respecting the holders of TCEs.
- b) Respectful conversion and reinterpretation of TCEs.
- c) Acknowledging and recognizing the holders of TCEs.

- d) Using the work of indigenous designers with their authorization or through collaborating with them.

V. IP PROTECTION REGIME FOR INDIGENOUS FASHION IN INDIA

We live in a country rich in culture and traditions, which have great economical value in national as well as international market. The classic examples can be the Pashmina from Kashmir, Muga Silk in Assam, Zari in Gujarat, etc. Fashion is not just confined to the modern form, rather modern form in combination of traditional fabrics, designs, stitching style to produce a more elegant work.

Like other subjects of IP, Indigenous fashion and designers have no specific act in regard of their protection in India. However, certain provisions of IP act speak about their protection which is discussed below:

- **Designs Act, 2000:** The style, shape, pattern, prints, of garments which has been made by people of indigenous communities or people in relation to them can be classified under industrial designs. Ancient products like garments, accessories, jewelry which are hand woven can also be a classification of design. India has a rich culture and there are uncountable traditional designs that are deep rooted in our indigenous community. The types of traditional or indigenous design registered under the Designs Act are Chicken Kadhui from Lucknow, Kingkharu, Gamkharu, Gach Pat, Junbiri design from Assam.

- **Trademarks Act:** Trademarks is basically based upon two philosophies:

distinguishability and avoid chaos or confusion. The mark should be distinct and should not resemble words, phrases, symbols or design of a same product type. A mark differentiates two types of product to end the chaos occurring in minds of consumers. A wide range of items made and adjusted by makers, professionals, experts, and brokers in local and native networks, or by the bodies addressing them or under which they are coordinated, can be separated from similar sorts of labor and products delivered by others, by the utilization of brand names and administration marks.

Collective marks can be utilized to ensure creative and social items. Certification marks might be utilized to separate a wide variety of items just as administrations, from customary craftsmanship and work of art to food, garments, and the travel industry administrations. Native fashioners can get brand name enlistment for their names, imprints and logos to outstand their personality and social legacy.

- **Geographical Indications:** For protection of the indigenous designs Geographical Indication can serve the purpose. The GI has every one of the potential qualities that can adequately address the issues of native and neighborhood creators for forestalling conventional style.

GI is a type of intellectual property right that can be used to protect a source indicator when some quality, characteristics, or reputation of a good is attributable to its geographic origin (Osei-Tutu, 2021). It is a form of cultural protection which focuses on the indigenous and tribal culture. GI shows that a specific item begins or is made in a

particular nation, district or territory and accepts some exceptional qualities, characteristics or notoriety inferable from such spot of beginning or assembling. These extraordinary attributes are the consequence of different components like environment, topography, strategy for make, grouping of comparable organizations in similar locale or specialization in the creation or planning of specific items and keeping up with of specific quality norms. The definition of GI in the TRIPS Agreement is as “indications which identify a good as originating in the territory of a member nation, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin” (B.L. , Beedu, & S., 2018). GIs are owned by communities jointly who are working in same line of business in same origin. GIs feature the association between human endeavors, customs, culture, assets and climate. Geographical Indication centers around serving three boss capacities:

- a) Identifying design products as starting from or fabricated in a specific domain, area or region.
- b) Informing the buyers about quality norm of design items, owing to their geological beginning.
- c) Promoting deals of design products of a specific region.

GIs provide a protection for a period of ten years which is renewed again and again. GIs appreciate the efforts of indigenous communities and reward them with honor and prestige. GI is a collective right so it cannot be passed from

person to person. Unlike the other IP rights, Geographical Indication does not refer to innovations. IP rights like copyright, patent, etc. are designed to reward investments in innovation while geographical indications reward producers who invest in developing and building the reputation of a product (B.L. , Beedu, & S., 2018). But, for being protected under the GI Act, the claimed technique, product, or indicator must be registered under Act. If registration is not done the claimed product or technique will lose the protection in the eyes of law. In *People Tree v. Dior*, plaintiff alleged the defendant of plagiarizing some block printing designs made by plaintiff in collaboration with some artisans from Rajasthan (Jain S. , 2021). This block printing design could have been protected under the GI Act as a tag of Rajasthani artistic work. The flaw here was that the Dabu technique used in this case was not registered under the GI Act. This flaw was properly used by the defendant and therefore no legal recourse was available. Later the case was settled out of court.

Being a public property GI belongs to producers of the concerned goods; as such that it cannot be a matter of assignment, transmission, licensing, pledge, mortgage or any contract for transferring the ownership or possession. At present GI has covered a wide range of indigenous fashion under its regime to protect them from exploitation under the big brands or designers. Some of them are the Kolhapuri Chappals, Pochampally Ikkat, Kasuti embroidery from Karnataka, Kutch embroidery from Gujarat, Sujini from Bihar.

Limitation of GI Protection

The usage of Geographical Indication as a tool to protect indigenous fashion or indigenous knowledge is confined to few limitations that prohibit it from being used as the extensive tool to protect community.

a) GI do not cover intangible heritage such as the techniques of dying cloth. But if the technique of dying is in a recorded version, then it can be protected under GI.

b) Geographical Indication cannot be used as a tool to protect the knowledge underlying in the community rather it protects the product or design that indicates a particular geographical source.

c) Geographical Indication that has become generic and ordinary, and loses its monetary value can also not be protected.

d) The protection of GI can be given only to such products and TCEs and TK that reside in a defined geographical area and is not scattered.

e) The goods and services to be protected under the GI must possess a good commercial reputation.

Reasons for IP Laws being Inconsistent for Indigenous Designers

Modern IP laws have strict requirements of originality, novelty, authorship, ownership, limited duration. But the indigenous system of knowledge is based on three characteristics:

- a) Non-materialistic
- b) Trans generational
- c) Communal ownership of rights

When it comes to indigenous rights, it cannot be granted to a single person because they exist in

groups, family, or community. This is the main reason that indigenous designers fail to get their work registered under the modern IP laws.

To begin with, Copyright protection requires the criteria of originality, also it should be in some fixed form. Similarly, establishing ownership is also a hurdle in this case. The next concerned issue is the duration of protection, the indigenous designs and prints belong to an ancient period which would expire at some point. In the case of indigenous designers' protection cannot be limited to a certain time period as the cultural expression in the indigenous community is passed from generation to generation, a limited period of time will be a barrier for the coming generation.

Unfortunately, the Act does not protect the cultural expressions specifically but in certain situation it protects the derivatives of TCEs. In various circumstances copyright is guaranteed and is likewise handily procured by misshaping and controlling the first type of native articulations without perceiving the rights, interests of and advantages to the networks holding them.

Then comes Patent regime and here also traditional designers cannot be protected on the ground of novelty. The process and procedures used by indigenous designers is being used from several years hence they cannot be said to be novel. Patent also does not address the issue of community ownership which exist in the case of TCEs. So even patent law stands ineligible for protecting the indigenous fashion.

VI. IP PROTECTION REGIME FOR INDIGENOUS FASHION IN U.S.A

Indigenous Communities have a confined scope under the laws prevalent in U.S.A. There are no specific laws for the protection of traditional cultural expressions. For protection of TCEs in U.S.A. one can refer to various provisions described in the Lanham Act, Copyright Act. With respect to reserve, the Lanham Act has been viewed as the establishment of current U.S. Government Trademark Law, in spite of the fact that it doesn't especially accommodate enrollment of TCEs, malevolent enlistment can be restricted. A per Section 2(a) of the said Act, an application for registration of trademark can be denied if the mark consists of or comprise immoral, deceptive, or scandalous matter which may disparage or falsely suggest a connection with persons living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute. To further develop the assurance gave in this Act, the USPTO has set up a data set containing the authority signs or insignias of all State and governmentally perceived local clans of America, which can't be enrolled as brand name. Rejecting government enrollments by native elements of imprints that are TCEs, or inferred thereof, would concede guarded insurance to TCEs and furthermore forestall different sort of misappropriation. But the problem that persist here is that the indigenous communities do not wish to register their emblems as trademark because they do not want to commercialize it. They just want to stop the non-indigenous communities from using their symbols, names, emblems or any mark that is

their tribal identity or heritage. In *Navajo Nation v. Urban Outfitters*, Navajo Nation is an indigenous population of North America. This population was culturally prosperous and holds a high respect due to their quality and diversity of their arts, in jewelry making, costume, paintings, etc. Urban Outfitters is a multi-national company in America who is very well aware about the economic value which Navajo holds. Urban Outfitters marketed a product in the name of “Navajo” and “Navaho”. They reproduced the traditional Navajo designs without the proper permission from this group. Since 1894 Navajo holds 86 trademarks registered under USPTO. The urban outfitters using the name and design of Navajo Nation not only violated their IP rights, but also violated the Federal Indian Arts and Crafts Act as well and was also an unfair competition and disrespect to the community.

The scope of protection for indigenous designers under the U.S. Copyright law is very little. The Copyright in U.S. is based on the Berne Convention but the protection is provided as per the Act. The Act does not allow for a positive protection to cultural expressions or designs as they are considered to be in public domain. The indigenous designers face the issues in terms of originality, fixation, term of protection, concept of public domain, the focus on sole authors and fair use (Jojo, 2021).

The extensive misuse of cultural expression, design, heritage of traditional or indigenous communities have made them helpless and destitute. They are expected to give up their rights to the public domain and not expect a protection as the laws for them are inefficient.

Luxury brands and big designers or even MNCs manipulate the cultural work and obtain IP rights for the adaptations of the work. Requests and appeals made by indigenous designers are left unheard because law is incapable to address their concerns. The conventional IP law are stricter in terms of author, period of protection and ownership. The cultural expression in terms of indigenous designs belong to the community as a whole and authors become unidentifiable in such instances. Amendments should be made in existing law to need such requirement and address the issue of every community be it indigenous or non-indigenous. The solution for the inconsistency of law cannot be a demand for sui-generis law each time, rather efforts should be put in making the existing law best for everyone.

Unfortunately, there are many gaps in existing IP laws that prevent indigenous peoples from receiving the IP protection that they so desire (Mittal, 2020). These gaps range from specific technical limitations, such as the limited term of protection in copyright, to general conceptual and operational divides, such as the financial expenses associated with acquiring IP rights (Mittal, 2020). It is not difficult to avoid cultural appropriation in fashion industry. Fashion is all about creativity, our travel experiences which inspire us. This results in indigenous designers to make sure that their approach to curb the cultural appropriation is not solely centered around IP management (Mittal, 2020). It is also very important let the designers realize their responsibility and take the care while drawing inspiration which often turns into imitation.

Indigenous designers can be the most powerful voice for their own cultures in so far as they

| Type of IPR | Available IP |
|-------------------------|---|
| Copyright | A work as a "production in which thoughts or sentiments are expressed in a creative way and which falls within the literary, scientific, artistic or musical domain". Also, the work must be an original one. |
| Industrial Designs | 2-D & 3-D product designs (Example: A fabric print, pattern or the shape of a bag). The work must be registered for protection in this criteria. |
| Trademarks | Letters, numbers, words, colors, a phrase, sound, scent, logo, shape, picture, aspect of packaging or any combination of these. |
| Patent | It is granted for an invention of a product or process. |
| Geographical Indication | A sign that identifies a product from a specific geographical area. |

present an authentic vision of their traditional cultural expressions through their contemporary creations (Vezina, 2019). They must come forward whenever their culture or their work is misused. Raising voice and being aware is very important, then only they can protect their work and their designs.

VII. CONCLUSION

Fashion Designers are well educated, well versed and well established yet they lack sensitivity. They are the biggest contributor to the economy, as well the promoter to the employment too. Yet, they lack knowledge about their basic legal rights, which hinders their legal protection to their creativity and innovation. Creation can be based on inspiration in this industry, but it should not be stolen from someone else. The fashion designers should understand the value of their creation and get it registered for protection as soon as they create one. IPR has tried to cover the entire fashion industry as much as possible but yet there are loopholes in its implementation.

All of us would agree to a statement that piracy in fashion industry cannot end completely, it can also be not denied that if creation is protected properly chances of piracy can drop. It is very important for the creators to be alert about the IP rights that can provide the right protection to their creation. The government should also become stricter for counterfeiting practices existing in this industry. They should deal it as a criminal offence unlike other countries. There are several laws in IPR but one must always remember the following key summary of those available rights.

The fashion industry grows every day and focuses on quick production. The industry has become a hub of fast fashion where new trends are captured and produced in a minimum time. The fast fashion carries a simple objective of producing limited items in a short span of time. Apart from the possible problems of piracy the

other problem faced is in seeking remedy from the court of law. The fashion industry is rapid but our courts are running slow, disputes are registered and last for months and years and when the settlement date things don't remain the same and dispute loses its value. Trends in the fashion industry keeps on evolving therefore even courts need to maintain the pace with its procedure when dealing with issues of fashion industry. The time frame is an important aspect of this industry.

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