

FASHION INDUSTRY IN INDIA



A SHORT GUIDE ON FASHION INDUSTRY IN INDIA.

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Introduction

The Indian fashion industry has a lot to offer to the global market. India's history in fashion is filled with a lot of tradition and culture. India has a population of up to 1.3 billion, and yet, each region has always had its own traditional attire. The fashion industry has recently been boosted by a slew of western-inspired innovations.

India is a focal point for the fashion industry, reflecting a rapidly growing middle class and an increasingly powerful manufacturing sector. These forces, together with strong economic fundamentals and growing technology, make India too crucial for international brands to ignore. Interestingly, the fashion industry is poised to grow into a \$106 billion industry by 2026, bringing the Indian fashion market onto the map. From fashion formals for women to kids attire, the growth is spectacular.

The textile sector in the fashion industry contributes to the rural economy and the performance of major fibre crops and crafts such as cotton, wool, silk, handicrafts, and handlooms, which employ people belonging to rural and semi-urban areas. India is the world's second-largest producer of textiles and garments. It is also the fifth-largest exporter of textiles, spanning apparel, home, and technical products. The textile and apparel industries contribute 2.3% to the country's Gross Domestic Product ("GDP"), 13% to industrial production, and 12% to exports. Around 45 million people are working in the textile business, including 3.5 million who work on handlooms.

From 2019 to 2025, the industry is expected to grow at a 10% Compound Annual Growth Rate ("CAGR"), reaching US\$ 190 billion by 2025-26. The Indian apparel market was worth \$40 billion in 2020, and it is expected to grow to \$135 billion by 2025. Indian authorities are also certainly keen to promote investment. Relaxed regulations on foreign direct investment (for example, allowing 100 percent foreign-owned single-brand retail operations) will probably lead to more overseas-originated activity through the value chain. There has been an increase in annual shows by fashion designers in the Indian fashion industry. The industry has embraced all forms of clothing, from ornate clothes to casual wear.

Current Scenario

The tremendous growth and huge revenue potential of the fashion industry have made designers and fashion houses realize the importance of protecting their rights in the designs they create, both on and off the ramp.

There is a rise in the use of e-commerce among Indians, which is at 8%. Due to the increased job opportunities, more people are now using e-commerce to start, purchase, and improve their ways of life. As a result, the fashion industry helps the economy.

Revenue in the apparel market amounts to US \$87.60 billion in 2022. The market is expected to grow annually by 4.66% CAGR from 2022–2027. The market's largest segment is women's apparel, with a market volume of US \$39.51 billion in 2022.

In the apparel market, volume is expected to amount to 38,933.6 million pieces by 2027. The apparel market is expected to show volume growth of 9.8% in 2023.

The Indian fashion industry accounts for 1% of global industry net worth. The Indian total market for branded fashion is worth Rs. Their designer wear is still a smaller percentage of their branded apparel in the market, and sales turnover is between Rs 10 and Rs 25 crore.

Indian designer wear is estimated to be 58% for women, 67% for men, and 6% for western designers. The designer wear industry in India is also increasing at a rate of 10% every year.

Revenue in the footwear market amounts to US\$23.73 billion in 2022. The market is expected to grow annually by 6.77% (CAGR 2022–2027).



Foreign Direct Investment

- India has the most liberal and transparent policies for Foreign Direct Investment ("FDI") amongst emerging countries. India is a promising destination for FDI in the fashion industry. 100% FDI is allowed in this sector under the automatic route. FDI in sectors to the extent permitted under the automatic route does not require any prior approval, either by the Government of India or the Reserve Bank of India (RBI). Investors are only required to notify the RBI's regional office concerned within 30 days of receiving an inward remittance. The Ministry of Textiles has set up a FDI cell to attract FDI into the textile sector in the country.
- In the last five years, the fashion industry has attracted FDI and many other investments. Many more investments from FBB ("Fashion at Big Bazaar"), Raymond, Max Fashion, etc., and schemes like Scheme for Capital Building ("SCBTS") and Production-Linked Incentive ("PLI") are helping to boost production and increase exports in the industry. By 2025, India's fashion industry is expected to attract investments worth US\$ 120 billion and increase product exports to US\$ 300 billion.
- The fashion industry in India is very strong, as it has a variety of natural and man-made fibres and yarns. India's fashion industry plays a technological and capital-intensive role, and is compared with industries like heavy machinery, automobiles, etc. Since the pattern of industrialization in trade has become common in consumer goods industries and labor-intensive industries, there is immense opportunity in the fashion industry.
- India is expected to be the second most appealing market by 2025, contributing up to US\$ 121 billion, while China is expected to be the most appealing market contributor, contributing up to US\$ 378 billion by 2025.

Regulatory Framework



The Indian Textile industry is one of the biggest industries that contributes a large amount towards the Gross Domestic Product ("GDP") of our country. There are certain acts that facilitate towards regulating certain sectors of the fashion industry by establishing committees that maintain quality of the industry.

The Textile Committee Act, 1963 Act provides the establishment of a committee for ensuring the quality of textiles and textile machinery and for matters connected therewith. The Textile Undertakings (Nationalization) Act, 1995 has been established to provide the acquisition and transfer of textile undertakings, as well as the owners' right, title, and interest in respect of the textile undertakings, as specified in the First Schedule, to increase the production and distribution of various types of cloth and yarn in order to serve the general public's interests, and for matters connected with or incidental thereto.

As India is the largest producer of cotton textiles and to make it more versatile, The Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1986 was enacted, the Act provides for the acquisition and transfer of certain textile undertakings of the Swadeshi Cotton Mills Company Limited in order to establish proper management of the undertakings which would serve the interests of the general public. The committee ensures the continued manufacture, production, and distribution of various varieties of cloth and yarn, and gives effect to the State's policy of securing the principles specified in clauses (b) and (c), of Article 39. Apart from the above acts that regulate the industry the need of proper textile laws and regulations is huge to run the textile industry without any disturbance and therefore these laws were introduced which helped textile industry of India to grow efficiently.

Legal Framework

The fashion industry consists of designing, manufacturing, and dealing in new and unique designs of clothes, accessories, or jewelry; therefore, intellectual property rights (IPR) extend to fashion law as well. These designs are the fruits of somebody's intellectual work and should therefore be protected by IPR. There is a need to protect the designs from being copied and taken from them. The Indian laws that protect the work of designers from design piracy are primarily the Copyright Act and the Design Act, but also include the Trademarks Act and the Patents Act. The following acts are discussed below:

1. The Copyright Act, 1957

The Copyright Act of 1957 protects designs that are registered under the Act. Under the Copyright Act of 1957, people are entitled to 15 years of protection if they meet the artistic work criteria. Section 15 of the Copyright Act of 1957 covers the commercial and industrial use of original works for industrial production or furnishing. To effectively enroll the design under the Act, the following aspects must be met:

- the design has to be an original artistic work;
- carry the required documents to prove the originality of the design to register it under the act, and
- the particular garment or design derived from the creation should be applied and should not be reproduced more than 15 times by the industrial process, by any other person, or by the owner.

2. The Trade Marks Act, 1999

Making the mark in the highly competitive and dynamic fashion industry is crucial. A trademark is any term, name, symbol, design, or colour combination that is used to differentiate and identify products in commerce. The top registered brands in the fashion industry include their registered brands when designing clothing and accessories. Since the logo functions as part of the design, trademarks offer strong protection against imitations.

3. The Design Acts, 2000

This Act is drafted to protect an object's non-functional aspects, including its visual appeal. Under this Act, one can protect a particular shape, configuration, pattern, or composition of colours in two-dimensional and three-dimensional forms.

The particularly registered design can be protected for 15 years. In the event of any piracy of the registered design, the owner can initiate legal action against the infringer. They can also file a lawsuit if their reputation suffers any harm. The design registration process is one of the fastest intellectual property registration processes.

4. The Competition Act, 2002

The Competition Act of 2002 was introduced to deal with unfair trade practises in India and replaced the Monopolies and Restrictive Trade Practices Act of 1962. Unfair competition is an act or practice that, in the course of industrial practice, is contrary to honest practices. Under the Competition Act, 2002, unfair trade practices include anti-competitive agreements, abuse of dominant positions, and combinations.

5. The Geographical Indications Act, 1999

Geographical indications are primarily used to protect products based on their geographic origin. Within the domain of fashion, it is applied primarily to handicrafts, such as the Kandangi saree from Tamil Nadu, the Kullu shawl of Assam, the Mysore silk, etc. Provisions under this Act help protect indigenous populations from having their creations copied by outside entities.

Taxation Regime

In terms of overall GDP, economic opportunities, and trade facilitation, India's garment industry ranks among the oldest and most vital drivers of the country's economic growth. The fashion industry is the second-largest manufacturing sector in the country and engages both skilled and unskilled workers. Since the fashion industry has various sectors, there are separate taxes associated with the sectors accordingly.

Any article of clothing or jewellery will be subject to a 5% GST tax as long as the taxable value of the items does not surpass ₹ 1,000 per unit. According to Schedule II of Chapter 62 of the Goods and Services Act, 12% GST would be applied to all kinds of clothes and apparel with a retail value greater than ₹ 1,000.

If the retail sale price is permanently stamped or imprinted on the shoes themselves, footwear with a retail sale price of no more than \$500 per set is subject to a 5% GST tax. There are footwear categories that are subject to an 18% GST rate; these include footwear with textile uppers and outside soles made of rubber, plastic, leather, composite leather, etc.

Buyers of raw cotton must pay GST on a reverse charge basis at 5%. The services of tailoring and renting clothes also attract GST. However, the composition scheme is available for the supply of clothes, provided the annual turnover is up to Rs. 1.5 crore (Rs.75 lakhs in north-eastern states). Similarly, the limit is Rs.50 lakhs for cloth rental or stitching services.

Registration

A brand could be a business name, domain name, product name, slogan, logo, term, design, or other feature that distinguishes a product or service from other.

Branding is a must for all businesses that are into manufacturing products or providing services. Brand registration in India involves multiple processes such as domain registration, business name registration, trademark registration, and copyright registration, as follows:

- **Domain Registration**

The branding exercise starts with domain registration, as more and more people search online for businesses, products, and services. Online presence has become a must for all businesses, and it is important to lock in the required domain name for the business, which is synonymous with the brand name.

Most popular domain names ending with .com or .net have already been registered, so a business may have to settle for a domain ending with .in or .co.in or other similar extensions. Domain name availability can be searched through Google Domains.

- **Business Registration**

For startups setting up a new business, the branding exercise starts with the selection of the business name. The business name is the legal name of the entity, reflected on the bank account of the business, tax registration, legal documents, employment contracts, etc. The business name does not necessarily have to match the brand name or website of the business. However, it is nice to have a business name that is similar to the domain and brand name.

Once the brand name has been decided, the entrepreneur can use the Ministry of Corporate Affairs' company or Limited Liability Partnership ("LLP") name check facility to search for available names. It is important to remember that the Ministry of Corporate Affairs does not approve any proposed business name that is similar or identical to that of an existing company, LLP, or trademark.

• Trademark Registration

Trademark registration is the only registration that can provide absolute brand name protection. Trademarks can be used to protect the brand name, business name, slogan, logo, design, and more. Therefore, businesses planning to invest significantly in branding or brand promotion must definitely obtain trademark registration. An application for trademark registration must be filed under one or more of the trademark classes that relate to the goods or services to be sold by the business.

Once a trademark application is filed with the Trademark Registrar, the TM symbol can be placed next to the trademarked brand name, business name, slogan, logo, design, and/or more. Trademark registration, on the other hand, is a time-consuming process that could take more than a year. Therefore, an application for trademark registration must be made as soon as possible, and the trademark application must be tracked until the trademark is registered. Once the trademark is registered, the ® symbol can be placed next to the brand to put others on notice that the brand is a registered trademark.

• Copyright Registration

Copyright registration and protection are afforded for literary, dramatic, musical, and artistic works and producers of cinematograph films and sound recordings. If the brand has a unique logo with artistic characteristics, then the logo of the business can be copyrighted to obtain additional brand registration under the law. Logos that are not particularly distinctive or lack artistic elements are usually ineligible for copyright protection.

An application for the copyright of the logo must be made to the Copyright Office in the prescribed format. Copyright registration is typically faster than trademark registration. Therefore, businesses that require quick brand registration can apply for copyright registration in addition to trademark registration.

Dispute resolution

- **Legal rights under civil law: Injunction and damages**

The act of copying or counterfeiting endangers the lives of multinational fashion brands in India, as well as the economy. A suit for an injunction can be filed to restrict and injure the accused from using the copied material or benefiting from it.

- **Alternate Dispute Resolution ("ADR")**

Due to the unique features of fashion disputes, ADR can provide fashion corporations and designers with significant benefits in resolving disputes that cannot be achieved by litigation. In ADR, the parties can pick a neutral arbitrator. ADR methods can deliver a solution in less than a year. The advantages that are associated with ADR are listed below:

- Party autonomy is given, which is of the utmost importance to ensure that both parties are satisfied with the agreed settlement and business can be carried forward without any remaining issues.
- A single procedure is involved that ensures all the disputes are covered, even if they do not belong to a single jurisdiction.
- Confidentiality helps the parties focus on the advantages arising from the dispute without any fear of public scrutiny, which can hamper one's public reputation and
- They also help preserve business relationships and make sure they can continue their alliances for future collaborations from which both parties would benefit.

How we can help?

Our team provides unique and innovative legal and compliance solutions, which are bespoke to the client's requirements.

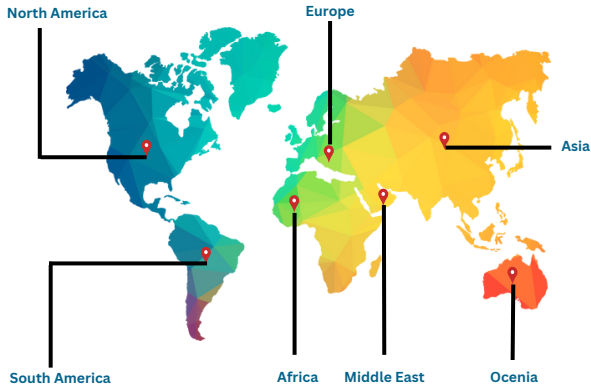
Our experts advise and represent domestic and international designers, fashion establishments, retailers, etc. and engages proactively with the fashion community to educate it on the simple steps needed to protect intellectual property and enhance brand value, and support commercialization.

We help our clients in recognizing, protecting, and exploiting their rights and interest by providing the following services:

- obtaining a trademark, copyright, and design registration.
- licensing, assignments, and franchise agreements.
- manufacturer, vendor, supplier, and distribution agreements.
- agreements relating to the modeling, celebrity endorsements, advertisement, and marketing.
- agreements relating to employment, independent contractors, non-disclosure obligations, and confidentiality.
- obtaining statutory licenses required under labor laws, label and packaging laws, etc. and
- litigation and disputes including anti-piracy and anti-counterfeiting actions, infringement suits, product liability, consumer complaints, cease, desist, and takedown notices.



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