Claudia Del Re

Fashion Law

Pills for enterpreneur and fashion operators

MANUALI FrancoAngeli

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After 10 years of lectures to Fashion Law scholars from all over the world I said to myself that the time had come to put them all into writing. And I realized just how much as it is inside me and, equally, how much I enjoy it.

To Rosada, who wanted so much to see a creature.

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Preface

In the era of "globalized fashion 4.0" research and education institutes are compelled to re-evaluate the system of educating the "creative" talent in the field of design and art. The protection and enhancement of research findings and creations are now the pillars of the so-called Third Mission, affecting universities, research study and educational institutes on a global scale. In addition to the two traditional tasks (research and education), in fact, institutes now also embrace the commercialized promotion of ideas in the market. We need to find new ways to impart knowledge and acumen in the society; between the logic of the media and the correct information, business logics and scientific curiosity (innovation), finding funds and promoting participation on the part of young talents.

By definition, educational institutes need to produce new knowledge and higher educational profiles, therefore, they must be equipped to face the new challenge of putting themselves and their students at the center of the society, where the motto should be widespread and participatory knowledge sharing. The global economic crisis has led the student potential to rise in both, becoming a fashion brand entrepreneur and adding value to the creation – all by himself. Student-entrepreneurs can make a huge positive difference to the world and being a business student is a great platform to help people and the planet.

First and foremost, the awareness of intellectual property is an absolute prerequisite of any student-entrepreneur. The identification of intellectual property, in regard to the creation of a product/process or an idea, is the first and, most essential step in achieving adequate placement in the market. With this in mind, the third millennium raises more challenges for the educational

system, such as the introduction of new vocational courses aimed to protect and enhance an artist's work and creations, i.e. the Fashion Law system. Furthermore, as the authors of independent styles and tailors of commercial architectures in the third millennium, the era requires more diverse abilities, such as the crucial knowledge and advanced application of legal instruments. Generally speaking, the new system of education will not only change the concept of the students, but also that of the "creative talents". In fact, the new millennium will be redefining the role of "artist". It will not simply be a person blessed by a genius flash with innate talents and waves of inspiration, but also someone who knows how exactly to use entrepreneurial skills, through studies, practice and confronting the challenges of the real-work market. The modern artist can be mirrored very well in the statement made by the renowned designer Stefano Ricci: "Today we need professionals, no longer phenomena".

The Fashion Law is, therefore, the "Third Vision" of the educational system in fashion: "Third Mission", "Third vision", and enhancement.

This volume is intended for professionals of international rank (Italian and foreign, interested in or already experts in law, economics or marketing who intend to develop their professional activity in the fashion and luxury sector) desiring to also have a cultural back-ground concerning more purely managerial aspects and/or, in any case, to complete their profile with technical-legal details. In all cases, however, the main objective of the text is to guide everyone within the world of law, in order to acquire a general awareness of the legal institutions which have the greatest impact and importance on the birth, growth and development of a fashion brand and on that of the luxury concept.

I usually say that a brand is like a child, or a human creature that, once it comes to light, if not properly clothed, nourished and protected, is exposed to elements that could lead to death. Here, this guide aims at becoming a mentor to provide nourishment for the success of entrepreneurs, scholars, and operators in the Fashion and Luxury sectors.

Claudia Del Re

Introduction

1. Fashion, Law and Fashion Law

Fashion, in addition to being a social phenomenon that becomes a reality when reaching its affirmation, in a specific historical moment and in a given geographical and cultural area, of aesthetic and behavioral models, is also a cultural-legal phenomenal of an economic-legal type.

The "Fashion" phenomenon has, in fact, to do with the construction of an identity, consisting of:

- the appearance of the products;
- advertising, with which the brand defines itself and its adhesion to certain references;
- the choice of testimonials used to convey certain messages;
- the choice of product distribution and sales channels;
- even the store layout and the final price imposed on the consumer.

And none of the social sciences, more than law, provides more suitable tools to attempt to define and embrace the whole domain of 'social' phenomena, seeking general laws and both assured and objective parameters of protection.

In the light of the foregoing, fashion law can, therefore, be defined as a specialized area of law that covers issues related to the business of fashion. While the term is still relatively young, fashion law has been practiced for centuries. Lawyers covering the legal issues of designers, manufacturers, distributors, retailers, importers, and other fashion and style related businesses are dealing directly with the business of fashion.

Fashion law is a legal field encompassing issues that could arise at any time during the life of an article of clothing or a fashion accessory. Fundamental issues in fashion law include intellectual property; business and finance, with subcategories ranging from employment and labour law to real estate; international trade and government regulation, including questions of safety and sustainability; dress codes and religious apparel; consumer culture; privacy; and civil rights. Fashion law also covers related areas such as textile production, modelling, media, and the cosmetics and perfume industries.

It is therefore quite clear how fashion law intends to analyse all aspects of the fashion business, framing them from a legal and economic point of view. In some ways, it is customary to say that the law means, by means of Fashion law, to "clothe" the brand with defined rules and cautions.

In this regard, it is best to specify immediately what is meant, in a more general sense, by the word "brand". There is no legal definition of brand, yet this term of strategic marketing is well suited to summarize in a unicum the various forms of protection that can be combined, or alternated, to differentiate themselves from their competitors. More specifically, in fact, "trademark" is a legal concept that defines a distinctive sign capable of making the products of one competitor recognizable from another, while "brand" expresses a concept of economic extraction (marketing management) with which it is intended to include a series of intangible corporate assets (combination of elements such as name, slogan, logo, communication, company history and reputation), of which the trademark is certainly an important part. This is true to the extent that the registration of a trademark adds value to a brand in that protects its other inherent assets, and while that brand profile and positioning may vary over time, the trademark protection remains the same.

2. What is a brand

The term "brand" defines the differential features of a product or service, whether they are perceived as real or imaginary, rational or irrational, tangible or intangible.

A brand is fundamentally composed of the image of the company just as it is filtered and interpreted by its own personal experience, by third parties and/or by the imaginary one. Through the conscious and unconscious contents that the consumer projects and deposits on it, a brand constitutes part of and builds up his/her identity, thus generating certain perceptions, attitudes and behaviors which will enable fulfillment during the course of its life.

The consumer is led to the brand identity formation process by using the following levels:

- mind share (cognitive level);
- heart share (emotional relationship);

- buying intention share;
- self share (self-expression and self-design);
- legend share (cultural-sociological proposition; legendary; mythological).

In a highly competitive world, where manufacturers are losing their pricing power, branding is seen as a way of retrieving some of the lost influence. Nowadays, the construction of a brand identity:

- represents a real and marketable asset;
- contributes to increase profit margin (price premium);
- increments cash flows;
- reduces cash flow sustainability risk;
- accelerates speed of cash flow;
- increases bonding and customer loyalty;
- limits growth of competitors;
- facilitates higher product availability (better distribution coverage);
- can be the basis for international expansion.

Consumers are short of time and overwhelmed by the choices available to them. They want strong brands that simplify their decision making and reduce their risks. It is, therefore, evident how brand management is a vital ingredient for success in corporate strategy and why the value of brands is a key determinant of enterprise value and stock market capitalization: financial markets reward consistently brand strategies. But brand building requires time and money, and the monitoring of a brand should be a continuous process: the higher the profile is, the higher the exposure is and all the greater will its vulnerability be.

That's why accompanying the growth of a brand cannot fail to take place in a cogitated, correct manner and in compliance with the relevant legal regulations. The Fashion Law precisely intends to provide the correct tools to follow the most relevant phases and to direct them in the most efficient, convenient and valorising way.

3. Fashion Law

Fashion Law represents a pioneering area that brings together different sectors of law:

- Commercial (corporate) law;
- Protection of intellectual/industrial property;
- International trade law;
- Labour law;

- Civil and criminal law in general;
- Customs law.

The volume, while not claiming to outline the international legal landscape of the various sectors (if only because many of them are governed principally by state rules and internal regulations), is intended to focus mainly on those sectors that can enjoy an international scope, such as the protection of intellectual property and international contracts in general. Commercial, criminal, labour and customs laws are, in fact, governed by national rules and practices. Nonetheless, however, for those sectors governed by national laws, efforts will be made to provide some general schemes validly usable in each market area.

With this premise, the volume intends to lead the reader down a path of corporate brand development, starting from its foundation and organization, from the protection of its creations (core business) up to the establishment of its own network/network of contacts, to be managed through a correct contractual architecture.

1

Fashion Law and the foundation of a fashion/ luxury company

1. Companies in the fashion sector

Commercial law is a branch of private law that regulates the relationships connected to the production and exchange of wealth. More specifically, it regulates and regards the contracts drawn up between economic operators and between these and their private customers (natural persons), as well as the deeds and activities of the companies.

Consequently, it also includes private company law. As mentioned above, therefore, private (and therefore commercial) law related to managing and regulating companies can only be regulated (for the very fact that it affects the basis of trade) by national laws. It, therefore, becomes difficult to outline an internationally valid corporate legal framework.

This is why it was decided, beyond the standardization and discipline of the various capital companies, to set down in this paragraph the main guidelines for the foundation of a company/the opening of a company in the field of fashion or luxury.

First of all, it must be said that before the establishment of a company of which the corporate purpose is the production, marketing, and manufacturing of fashion products/services, it is necessary to clarify and totaly comprehend the core business you intend to embrace.

To this scope, therefore, it becomes paramount to outline a precise market policy, before proceeding.

To be more precise, in relation to the items to be offered to consumers, it is important to specify how it is appropriate to invest one's physical and financial resources in a specific market segment. A high diversification

offer can be risky, for an immediate return it is often convenient to focus on a specific market proposal. Choosing the appropriate products to market depends on the skills, but before any initiative is taken the potential of the area destined to host the new commercial activity must be investigated. This is why a market investigation aimed at finding the best location for the business and the existence of any competitors becomes crucial.

To this end, the following procedural steps are recommended:identify which types of products could appeal to which group of people

1. understand that knowing the target market for a particular product or service is vital when it comes time to sell it;
2. understand what a marketing strategy is;
3. develop a marketing strategy for a product or service once the target market is known;
4. understand how pricing affects the marketing strategy for a product or service.

At the price policy level, once the product is defined, of great importance is:

- defining fixed costs;
- defining variable costs;
- identifing which costs are fixed and which are variable;
- calculating total fixed and variable costs;
- finding the variable costs for a single product;
- understanding the concept of break even point;
- calculating the break even point;
- using the break even point to help establish a price for their product.

Another fundamental aspect to create your own brand identity is to put together a staff with heterogeneous skills, so as to be able to fill the key roles within the company. The political and market vision must be absolutely shared.

Then alongside a solid corporate structure and with the same values, it will also be essential to support them with other professionals in key sectors, such as: finance and accounting; law; management; marketing and comunications; creativity (photographers, stylists, graphic designers).

Once a shared market policy has been defined and the members of the company contracted, it will be a question of choosing the best corporate suit for the business activity you intend to start. Usually the choice of the type of company is significantly influenced not only by the type of product/customer to be proposed, but also by the taxation of each company in proportion to the capital available (whether their own or that which is financed).

The trade-offs involved in corporation vs. partnership vs. other forms of business are significant. Small problems confronted at the early stages of a new business can become over bearing problems later on. That's why the cost of simple legal/accountant advice in this regard is almost always worth it.

Another economic element that must be taken into consideration is the cost, in relationship to the type of trade/product it is intended to deal with, of the various licenses/permits, often on a national basis, that should be paid to start your own business. It's hard to generalize on licenses and permits, because some of these depend on where the business is, and some depend on what the business does.

Normally, in order to calculate the costs, it is necessary to check with local sources (Chamber of Commerce, or Small Business Development Center (SBDC). For example, many cities have zoning laws that define where you can put retail stores, office spaces, and industries. Few of these affect the small home-based business, but it's not unusual to find zoning laws that prohibit signs from being placed on lawns or houses. Some types of businesses require local or state licenses. This depends, once again, on where the enterprise is, but businesses including daycare, body care, food service, and, of course, restaurants often require special licenses. Normally, it is necessary to obtain a business license, that is the permission to do business in main headquarter of the company. For very small businesses, it is also possible to obtain precise tax exemption information.

The subsequent steps that a new company in the sector will have to take, net of the clear and precise definition of those mentioned above, pertain to bureaucratic-formal requirements, which still differ from country to country. In any case, without claiming to be exhaustive, and for the sole purpose of stigmatizing the main activities to be carried out, one must undoubtedly register the company at the Chamber of Commerce of the province concerned and/or at the competent national office where local companies are listed and registered (Company Register).

Subsequently, it will be necessary to open your own tax profile, different from the type of "corporate suit" that you intend to attribute to your business, in front of the state tax authorities, by submitting a specific form accompanied by the required attachments. In this regard, we remind you that it is possible to choose between different tax regimes for your business, based on the volume of business produced annually and/or expected to be produced. Returning to the simplified regime means enjoying some exemptions compared to the ordinary regime, but it all depends on the income limits imposed by the law.

The opening of retirement and corporate accidents and workplace safety positions is also extremely important. In order to fulfill all the bureaucratic steps necessary to open a company/firm correctly, it is intended here to reiterate that it takes a lot of competence and, above all, a lot of experience. This is why it seems appropriate to seek the advice of a serious professional with the necessary knowledge on the subject, a person capable of dealing with all the paperwork without any errors en route. The lists of competent professionals where the business is to be opened can always be obtained at the Embassies of each country. Other excellent resources are also the Digital Portal of Justice, either european or extra-european.