

AUTHORSHIP WITHOUT HANDS: RETHINKING COPYRIGHT INFRINGEMENT IN FASHION WHEN ARTIFICIAL INTELLIGENCE (AI) TRAINS ON RUNWAY AESTHETICS RATHER THAN DESIGNS

Abstract:

This paper discusses the new threat to copyright law in the fashion industry presented by artificial intelligence (AI) generative systems that are being trained on the aesthetic principles of a runway instead of specific designs of individual garments. Although fashion has historically held a competing position in the protection of copyright, AI-based models make the situation more complex as they learn through silhouettes, colour schemes, textures, and visual atmospheres that all combine to create an aesthetic identity of a designer without necessarily imitating the copyrighted work. The article questions whether this training and output creation can be copyright infringement according to the current legal systems, or they are not subject to protection of the expressive works as ideas, fashions, or styles that are not protectable. Based on comparative analysis of the US, UK, and EU copyright doctrines, such as the idea-expression dichotomy, originality, and text-and-data mining exception, the article discusses that the current law fails to reflect the diffuse and cumulative nature of aesthetic appropriation by AI. The article presents the conflict between humanistic and algorithmic production through the introduction of the notion of authorship without hands. It ends with the evaluation of the dangers of overprotection and underenforcement, and the suggestion of the doctrinal clarification as the means of finding the middle ground between innovation, creative freedom, and the changing reality of AI-generated fashion.

Keywords: Artificial Intelligence (AI), Fashion Law, Copyright Infringement, Authorship & Originality, Aesthetic Expression.

*“In depths of soul, creativity blooms,
A tapestry woven with passion looms.
With the words and brush, vision take flight,
Imagination’s spark, a beacon of light.*

*In each creation a glimpse of worth,
Humanity's art, an endless rebirth.”
- Robert Frost.¹*

Chapter 1

Introduction: Authorship Without Hands in the Age of Algorithmic Fashion

The increasing adoption of artificial intelligence (AI) by the fashion industry questions the most basic principles of the copyright law and requires the redefinition of the notions of authorship, originality, and infringement.² Authorship without hands in the age of algorithmic fashion summarizes the defining conflict between human creative agency and machine generated outputs, preconditions law and philosophical inquiries of ownership when generative systems generate new fashion artifacts knowing but not identical to human-made designs.³ This critical commentary dates the introduction of such a piece to the wider academic discourse on the effects of AI on intellectual property (IP), specifically as presented in *Authorship Without Hands: Rethinking Copyright Infringement in Fashion When AI Trains on Runway Aesthetics instead of Designs*.

The definition of authorship in the copyright legislation is the most crucial aspect in this query. In the classical jurisprudence, the authorship is rooted in the human agency and creativity is considered to be a particular case of a human activity.⁴ Nevertheless, the work of AI systems and generative models in particular, which are trained on large data sets of fashion images and runway trends, makes this paradigm difficult

¹ Harshal Chhabra & Kanishk Gaurav Pandey, *Balancing Indian Copyright Law with AI Generated Content: The 'Significant Human Input' Approach* (February 26, 2024), available at: <https://forum.nls.ac.in/ijlt-blog-post/balancing-indian-copyright-law-with-ai-generated-content-the-significant-human-input-approach/> (last visited 10 January, 2026)

² Lisa P. Lukose & Chahat Abrol, “*INTELLECTUAL PROPERTY PROTECTION OF FASHION DESIGNS IN AI ERA: A CRITIQUE*”, *Journal of the Indian Law Institute* [Volume 65:3], www.researchgate.net/profile/LisaLukose/publication/378103521_INTELLECTUAL_PROPERTY_PROTECTION_OF_FASHION_DESIGN_IN_AI_ERA_A_CRITIQUE/links/65c66e8d1bed776ae33b79e0/INTELLECTUAL-PROPERTY-PROTECTION-OF-FASHION-DESIGNS-IN-AI-ERA-A-CRITIQUE.pdf.

³ *Ibid.*

⁴ Aubrie McEwen, “*ARTIFICIAL INTELLIGENCE IN THE FASHION INDUSTRY*”, ISSN 0041-9915 (print) 1942-8405 (online) DOI 10.5195/lawreview.2024.1059 <http://lawreview.law.pitt.edu>.

because, in their work, it is possible to not only reproduce the past designs but also to combine stylistic elements in a random manner.⁵ Introduction is useful in setting this change as not authorship with hands to authorship without hands where the human touch becomes more and more mediated by processes of algorithms.⁶ This theoretical shift highlights one of the central legal issues; in case AI-created fashion is not considered to be fully derivative of certain pieces of work, nor directly attributable to a certain human author, how ought the copyright doctrine to react?

Authorship without hands builds on this argument by comparing two ways of AI impact; *first*, training on designs, and *second*, aesthetics. In the event that AI models are trained in regard to explicit protected works, the danger of copying copyright facets is more apparent.⁷ Conversely, abstract aesthetic training, e.g. runway styles, color schemas, thematic motif, results cannot be easily compared to the original work and yet contain the creative work that goes into the training corpus.⁸ This grey zone of legal matters is already prefigured in the introduction with the focus on runway aesthetics which makes it difficult to assert that the current infringement tests such as substantial similarity are adequate in such a case when applied to the work of AI in the form of its generative outputs.⁹

Such a matter of law, makes some urgent questions about the sufficiency of the existing infringement systems. Does the idea of aesthetics, which is abstracted by artificial intelligence, and is it necessary to preserve it under copyright, or does it have to be anchored to tangible output? Besides, when the outputs of AI is removed to the extent that it constitutes a substantial part of particular antecedent works, then is this a lapse in protection of human designers, whose stylistic input is consulted by AI systems but never copied directly? The introduction hypothesizes that the current doctrines might be poorly placed to resolve such questions, and calls upon a

⁵ Lisa P. Lukose & Chahat Abrol, “Need for Unregistered Design Rights in India: A Contemplative Cogitation”, *Journal of Intellectual Property Rights*, Vol 29, January 2024, pp 33-42, DOI: 10.56042/jipr.v29i1.

⁶ *Ibid.*

⁷ Heidi Harkonen, “Fashion piracy and artificial intelligence - does the new creative environment come with new copyright issues?”, *Journal of Intellectual Property Law and Practice* 15(3): 163-172 (March 2020), DOI:10.1093/jiplp/jpaa021.

⁸ *Ibid.*

⁹ *Ibid.*

reconsideration of the standards of infringement as well as the assignment of credit to the when it comes to creativity.

Overall, the book opening to Authorship Without Hands in the Age of Algorithmic Fashion critically contextualises the legal and theoretical issues of AI ascent in fashion. It preconditions the redefinition of the principles of the concept of copyright at a time when the generation of the expressions proceeds more often and less frequently with the help of human hands.

Chapter 2

Runway Aesthetics vs. Copyrightable Expression: Conceptual and Doctrinal Boundaries

The emergence of artificial intelligence generative fashion has heightened the existing issues between the imitable aesthetic ideas and the protectable ones.¹⁰ This is more pronounced in authorship without hands debate, where AI systems are not conditioned on particular designs of garments but on the visual language of runway show silhouettes, moods, palettes, motion, and thematic integrity.¹¹ The legal issue is whether such runway aesthetic qualifies as a form of copyrightable expression or continues to be within the uncopyrightable category of ideas style, and how the infringement is to be conceptualized by having no human designer directly copy another one.

The doctrine of copyright has traditionally drawn a clear line between ideas and expression by protecting the latter, and leaving all eliminating the former.¹² This distinction has played a particularly consequential role in the fashion sector since U.S. copyright law typically fails to provide protection to useful articles, and clothing in

¹⁰ Michelle Lins De Lima, “*The Influence of artificial Intelligence in the Fashion Industry: Creation, Sustainability and Innovation*”, International seven Journal of Multidisciplinary 2(1) (January 2023), DOI: 10.56238/isevmjv2n1-018, https://www.researchgate.net/publication/390670050_THE_INFLUENCE_OF_ARTIFICIAL_INTELIGENCE_ON_THE_FASHION_INDUSTRY_CREATIVITY_SUSTAINABILITY_AND_INNOVATION

¹¹ *Ibid.*

¹² Tanvi Tewari, “*The Idea-Expression Dichotomy: Does This Dichotomy Really Exists?*”, NLU Journal of Intellectual Property Rights, Volume 2 Issue 1, ISSN: 2583-8121 (Online), <https://nluassam.ac.in/docs/Journals/IPR/vol1-issue-2/7.pdf>.

particular, unless pictorial, graphic, or sculptural elements are distinguishable disregarding the utilitarian elements.¹³ Therefore, the protection of individual garments is hardly ever strongly safeguarded in terms of copyright and more extensive aesthetic elements like trends, silhouettes, and themes have been considered as unprotected ideas or scenes a faire. Runway aesthetics interpreted as the edited visual and performative landscape of a fashion show have therefore conceptually been placed at a greater proximity to style than to expression despite them being highly creative.¹⁴

This framework is complicated by AI because it transfers the centre of copying away to collection of aesthetic cues. Training AI model on the runway images and videos does not recreate this or that garment but learns probabilistic relationships among image components, recurrent shapes, colour combinations, textural differences, and choreographed structures.¹⁵ The outputs can bring out the look and feel of a designer or fashion house without copying any recognizable work under copyright. In the normal infringement analysis, this creates a thresholding issue, in that copyright does not demand stylistic resonance but substantial similarity to an expression of expression that is being safeguarded.¹⁶ The appropriation of style has always been dismissed by courts, with the most famous examples of such cases being in the field of music, visual art, and literature, where vibes or aesthetic impressions are not considered to be enough.¹⁷

The runway aesthetics also erase the line since even a fashion show is not a single work, but a composition. It is a combination of clothes, music, lighting, stage, models,

¹³ *Ibid.*

¹⁴ Paolo Franzo, “*Beyond the Catwalk: Designing fashion shows between the ephemeral and responsibility*”, *Convergences - Journal of research and Arts Education* 18(36): 133-144 (November 2025), DOI: 10.53681/c1514225187514391s.36.332. https://www.researchgate.net/publication/398205948_Beyond_the_catwalk_Designing_fashion_shows_between_the_ephemeral_and_responsibility.

¹⁵ Selvi P., Madhumitha M., Shrimathi V.A, & Suresh R., “*AI-DRIVEN FASHION DESIGN: HOW MACHINE LEARNING IS TRANSFORMING THE CREATIVE PROCESS*”, *ShodhKosh: Journal of Visual and Performing Arts* 5(1) (June 2024), DOI: 10.29121/shodhkosh.v5.i1.2024.4387. https://www.researchgate.net/publication/389495004_AI-DRIVEN_FASHION_DESIGN_HOW_MACHINE_LEARNING_IS_TRANSFORMING_THE_CREATIVE_PROCESS

¹⁶ *Ibid.*

¹⁷ *Ibid.*

and framing of the storyline.¹⁸ Although each of the elements in the show could be copyrighted separately, e.g., choreography, music, or set design, the overall aesthetic experience of the show is hard to repair as a unit work of authorship.¹⁹ This shredding undermines arguments that AI (training on runway shows) is a form of copying of a protected expression, as the model ingests diffuse material that cannot be protected or which is, in any case, owned by more than one rights holder.²⁰ This, in terms of the doctrinal perspective, substantiates the opinion that AI training concerning the runway aesthetics is mostly beyond the frame of the copyright infringement.²¹

Anonymity further undermines infringement analysis by undermining the need to have volitional conduct.²² Traditional copyright infringement assumes the involvement of human entity, who duplicates or agrees to duplicate shielded expression.²³ The causation between any given copyrighted work and the end product is diluted when AI systems in autonomous fashion design creation draw on those aesthetics to produce the end product.²⁴ Although the output may appear to be similar to the look of a known designer, it might not be possible to attribute that similarity to any one specific work that has been registered and used in training.²⁵ This lends further credence to the fact that this nullifies the substantial similarity test and the concept of actionable copying that requires discernible connections between the source and output.²⁶

¹⁸ Patricia Sanmiguel, Anas Rus-Navas, & Teresa Sadaba, “Fashion Shows: The Greatest Show on earth” in book: *Fashion Communication in the Digital Age* (pg: 227-237) (August 2023), DOI: 10.1007/978-3-031-38541-4_21

¹⁹ Himanshu Sinha, *Copyright in Choreography* (March 21, 2018), available at: <https://blog.ipleaders.in/copyright-in-choreography-2/#:~:text=rights%20are%20provided,-,Copyright%20Act%20and%20choreography,section%20as%20regards%20choreography%20limited.> (last visited 10 January, 2026).

²⁰ *Ibid.*

²¹ *Ibid.*

²² May, Randolph J. and Cooper, Seth L., “*Volition Has No Role to Play in Determining Copyright Infringements*” (September 9, 2019). Perspectives from FSF Scholars, Vol. 14, No. 21, 2019, Available at SSRN: <https://ssrn.com/abstract=3457897>

²³ Prasun Kumar, *The Legal and Ethical Dimensions of Copyright Infringement* (October 18, 2024), available at: <https://www.khuranaandkhurana.com/2024/10/18/the-legal-and-ethical-dimensions-of-copyright-infringement> (last visited January 10, 2026)

²⁴ Heidi Harkonen, “*Fashion piracy and artificial intelligence - does the new creative environment come with new copyright issues?*”, *Journal of Intellectual Property Law and Practice* 15(3): 163-172 (March 2020), DOI:10.1093/jiplp/jpaa021.

²⁵ Shumin Zhu, Xingxing Zou, Wenhan Yang, & Wai Keung Wong, “Any Fashion Attributed Editing: Dataset and Pretrained Models”, *IEEE Transactions on Pattern Analysis and Machine Intelligence* PP(99), DOI: 10.1109/TPAMI.2025.3581793.

²⁶ *Ibid.*

Theoretically, courts can compare AI training on the aspects of runaway aesthetics with the human creative process where the designers research historical collections, visit shows and internalize the current trends.²⁷ This type of learning has never been thought as an infringement, and this is exactly due to the level of ideas and styles that it works with as opposed to expression.²⁸ Provided that AI is regarded as an extension of this form of human activity, its outputs should be deemed the same, i.e., they should not be considered infringed unless they are replicating any of the protectable elements that are specific enough.²⁹ This analogy helps support the idea expression dichotomy as a restrictive principle that cannot allow copyright to develop into a de facto right over fashion styles or brand identities.³⁰

Nonetheless, normative issues concerning AI training are increasing in scale and velocity and putting pressure on current doctrine. Although exposure of a single human designer to runway aesthetics is diffuse and interpretive the AI systems have the capability to consume large archives of shows and output results that are systemic appropriation of the commercial value of a designers aesthetic.³¹ This puts strain on the idea of re-examining the possibility of the traditional isolation of style out of copyright that has become untenable in a world where style can be recreated algorithmically.³² However, extending copyright to runway looks would be overprotective and stifle creativeness and strengthen the monopoly status of trends that fashion itself is built on.³³

Finally, the policy line of conceptual distinction between runway aesthetics and copyrightable expression is still pegged on the fact that copyright safeguards concrete, original expression and not the indefinable air or visual language of a creative

²⁷ Israel Olamilekan Adeleye, “*The Impact of Artificial Intelligence on Design: Enhancing Creativity and Efficiency*”, *Journal of Engineering and Applied Sciences (JEAS)*, Volume 3, Issue 1 (2024)

²⁸ *Ibid.*

²⁹ Yotam Werzansky-Orland, “*AI-Generated Content and the Question of Copyright*”, *International Journal of Business Research* (June 2024), available at: https://www.researchgate.net/publication/381566789_AI-Generated_Content_and_the_Question_of_Copyright

³⁰ *Ibid.*

³¹ Merheb, Clara, *Smart Machines and Smarter Legislation: Regulating AI Works within the Framework of Copyright Law* (June 02, 2025). Available at SSRN: <https://ssrn.com/abstract=5427534> or <http://dx.doi.org/10.2139/ssrn.5427534>

³² *Ibid.*

³³ *Ibid.*

profession.³⁴ With authorship without hands, the infringement analysis is advised to be concerned with output but not with training processes, inquiring whether AI-generated designs appropriate protectable elements are clear enough and similar enough.³⁵ Although AI makes existing tests less than adequate, they do not warrant a blanket rejection of the idea expression dichotomy. Rather it requires a subtle exercise of doctrine that does not limit creative freedom in fashion and responds to obvious instances of expressive appropriation and entrusts the wider issues regarding aesthetic exploitation to other legal frameworks, like trademark, unfair competition, or sui generis design protection.³⁶

Chapter 3

Training on the Runway: AI, Data Ingestion, and the Infringement Threshold

The fact that artificial intelligence is being trained using runway imagery, as opposed to single fashion designs, raises fundamental issues of copyright infringement, authorship, and natural boundaries to legal protection in fashion.³⁷ Contrary to the conventional instances of copying, when infringement can be tracked down to a particular garment or sketch, AI systems are provided with huge amounts of runway photos and videos to teach the aesthetic patterns, silhouettes, and style associations.³⁸ This change makes the analysis of infringement complex since what is being assimilated is not a discrete piece of work that is being infringed but a diffused language of fashion that lives at the interplay of creativity, fashion and cultural

³⁴ Christopher V. Carani & Dunstan H. Barnes, “*Designs - protecting fashion in the United States with IP rights*”, available at: <https://www.worldtrademarkreview.com/global-guide/designs/2020/article/designs-protecting-fashion-in-the-united-states-ip-rights-dagg2020#:~:text=Finally%2C%20copyright%20protection%20is%20another,separable%20from%20the%20useful%20article>. (last visited January 10, 2026)

³⁵ Yun Pei, “*A Study on the Boundaries of Copyright Protection for AI-Generated Content*”, AI & Future Society (AFS) : Technology, Ethics, and Governance in an Interdisciplinary Perspective

DOI : <https://doi.org/10.63802/afs.v1.i1.96>.

³⁶ Pranjal Shirwaikar, “*Fashion Copying and Design of the Law*”, Journal of Intellectual Property Rights Vol 14, March 2009, pp 113-121.

³⁷ Heidi Harkonen, “*Fashion piracy and artificial intelligence - does the new creative environment come with new copyright issues?*”, Journal of Intellectual Property Law and Practice 15(3): 163-172 (March 2020), DOI:10.1093/jiplp/jpaa021.

³⁸ J.V. Abhay, *Stealing Styles - Artistic styles and AI-Generated Art* (April 10, 2025), available at: <https://www.sconline.com/blog/post/2025/04/10/stealing-artistic-styles-ai-generated-art/> (last visited January 11, 2026)

expression.³⁹ Consequently, the juridical investigation should shift the object-based comparison to the analysis of how law conceives originality and protectable expression in a creative process that operates on data.⁴⁰

Runway aesthetics training is customarily scraping or licensing images and videos of fashion shows, which are in turn composite works of garments, choreography, lighting, music and staging. Individual garments might have limited copyright protection based on jurisdiction whereas runway shows as audiovisual work have a more definite protection.⁴¹ Nevertheless, AI training is not used to reproduce such shows and serve them to consumers; instead, it learns statistical relationships between recurrent shapes, textures, color schemes, and proportions to create new images.⁴² The ingestion process is therefore an abstraction process that has traditionally been subjected to copyright law as an unprotectable idea or style and not expression.⁴³ The critical question here emerges whether extensive aesthetic learning is in any way a copying, or rather beyond the area of infringement by being non-expressive analysis.

The challenge of the infringement level is especially hard to define when AI-generated work is shaped by the trends of a runway without copying recognizable clothes.⁴⁴ The classical concept of copyright is based on high levels of similarity and access, which become unpredictable in the AI environment. When models are trained using publicly available runway data, access is practically ensured, whereas with probabilistic recombinations instead of direct derivations, substantial similarity is hard to achieve.⁴⁵ Fashion where trends and repetitive motifs are rife may be the area that

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Nainy Singh, “*Protection of Fashion Shows in India*”, International Journal of Law, Education, Social and Sports Studies (IJLESS) Volume: 8, Issue 3, 2021 (July-Sept.) ISSN: 2455-0418 (Print), 2394-9724 (online), DOI: 10.33329/ijless.8.3.9

⁴² Nantheera Anantrasirichai & David Bull, “*Artificial Intelligence in Creative Industries: A Review*” (July 2020), available at: https://www.researchgate.net/publication/343228503_Artificial_Intelligence_in_the_Creative_Industries_A_Review. (last visited January 11, 2026)

⁴³ Jefrine Juliana J. & Kavyasri KS, “*The Idea–Expression Dichotomy in Indian Copyright Law*”, (November 2025) International Journal of Innovative Research in Technology, Volume 12 Issue 6, ISSN: 2349-6002

⁴⁴ Heidi Harkonen, “*Fashion piracy and artificial intelligence - does the new creative environment come with new copyright issues?*”, Journal of Intellectual Property Law and Practice 15(3): 163-172 (March 2020), DOI:10.1093/jiplp/jpaa021.

⁴⁵ Anjali Jain, *Analysing Copyright Violation by Generative AI* (August 21, 2024), available at: <https://blog.ipleaders.in/analysing-copyright-violation-by-generative-ai/> (last visited January 12, 2026).

courts find it difficult to state whether similarity to a look or vibe is cognizably a legal matter. This conflict reveals the constraints of a paradigm to be used with a human author to machine-mediated creativity.⁴⁶

Anonymous authorship only makes this analysis more complicated by disrupting the concept of a creative subject. In case a human author does not select the expressive details of an AI-generated garment directly, it is conceptually problematic to designate who bears the responsibility in a case of infringement.⁴⁷ All the creators of a creative pipeline include designers, developers, and data curators, yet none of them may have the sort of deliberate copying that copyright infringement traditionally assumes.⁴⁸ The lack of human intent is a weak point in moral and legal defense of infringement allegations founded on aesthetic proximity and not on replication.⁴⁹ This leads to the possibility that the current standards of infringement unconsciously assume the existence of a human authorial consciousness which is lacking in AI systems.⁵⁰

Politically, runway aesthetic training should be considered in terms of infringement or the danger of over-enclosure of the visual commons of fashion.⁵¹ Fashion has been running on weak intellectual property protection and thriving on fast trend cycles and cultural diffusion to continue the innovation.⁵² With infringement claims allowed by

⁴⁶ Amrapali Chaturvedi, *Fast Fashion and Intellectual Property Where Does Originality End and Infringement Begin?* (August 5, 2025), available at: [\(https://www.khuranaandkhurana.com/fast-fashion-and-intellectual-property-where-does-originality-end-and-infringement-begin#:~:text=This%20legal%20framework%20creates%20a,ideas%20in%20the%20public%20domain\)](https://www.khuranaandkhurana.com/fast-fashion-and-intellectual-property-where-does-originality-end-and-infringement-begin#:~:text=This%20legal%20framework%20creates%20a,ideas%20in%20the%20public%20domain). (last visited January 12, 2026).

⁴⁷ Yiran Li, *"The Human Authorship Requirement in AI-Generated Works: A Comparative Analysis of Copyright Protection Frameworks"*, *Journal of Law & Governance* (November 2025), DOI: DOI:10.64229/671z9c57, available at: https://www.researchgate.net/publication/398723345_The_Human_Authorship_Requirement_in_AI-Generated_Works_A_Comparative_Analysis_of_Copyright_Protection_Frameworks.

⁴⁸ McCann, Sancho, *Copyright Throughout a Creative AI Pipeline* (January 13, 2021). 19 *Canadian JL & Tech* 109, Available at SSRN: <https://ssrn.com/abstract=3893972> or <http://dx.doi.org/10.2139/ssrn.3893972>

⁴⁹ Japman Singh Bagga, *Legal Accountability for AI-Driven Intellectual Property Infringements: An Analysis of International and Indian Laws* (August 30, 2025), available at: <https://www.sconline.com/blog/post/2025/08/30/legal-accountability-for-ai-driven-intellectual-property-infringements-an-analysis-of-international-and-indian-laws/> (last visited January 12, 2026)

⁵⁰ *Ibid.*

⁵¹ Victor A. Oberting, IV, *Generative Artificial Intelligence and Copyright in the Film and Media Industry*, 82 *WASH. & LEE L. REV. ONLINE* 123 (2024), <https://scholarlycommons.law.wlu.edu/wlulr-online/vol82/iss2/2>

⁵² Vaidehi Sharma, *"PROTECTING AND PROFITING FROM FASHION INNOVATION: AN IN-DEPTH EXPLORATION OF IP COMMERCIALIZATION IN THE FASHION INDUSTRY"*, *IPR*

courts to be made based on AI learning about runway aesthetics, not only would technological progress be chilled, but also creative experimentation.⁵³ In contrast, the disregard of what the asymmetry between individual designers and those creating strong AI could result in further issues of appropriation, in particular, when the aesthetics of disadvantaged designers are appropriated and monetized without citation or compensation.⁵⁴

Practices related to data ingestion are also prone to examination when it comes to new doctrine which will establish a distinction between expressive and non-expressive use of a copyrighted work.⁵⁵ Jurisdictions have started to accept exceptions in text and data mining especially when the intent is not substitutive but analytical.⁵⁶ This reasoning can be applied to runway training to indicate that any AI systems implemented in an aesthetic analysis can be within permissible use as long as the outputs do not serve as substitutes to a protected work in the market.⁵⁷ Nevertheless, the aspect of branding and visual identity of the fashion renders this judgment tricky whereby even a non-identical product can water down a unique aesthetic sign of a designer.⁵⁸

Finally, it is necessary to reconsider the issue of copyright infringement with the emergence of AI-trained runway aesthetics, which inevitably involves the redefinition

Journal of Maharashtra National Law University, Nagpur (December 2023), Volume I Issue II, pp. 145-162.

⁵³ Japman Singh Bagga, *Legal Accountability for AI-Driven Intellectual Property Infringements: An Analysis of International and Indian Laws* (August 30, 2025), available at: <https://www.sconline.com/blog/post/2025/08/30/legal-accountability-for-ai-driven-intellectual-property-infringements-an-analysis-of-international-and-indian-laws/> (last visited January 12, 2026)

⁵⁴ Erika Balla, *The Ethics of Artists Using AI Technology in Their Designs* (January 2026), available at: <https://aijourn.com/the-ethics-of-artists-using-ai-technology-in-their-designs/#:~:text=One%20of%20the%20most%20serious,artists%20whose%20work%20trained%20it?.> (last visited January 12, 2026).

⁵⁵ Pallavi Rao, Soumya Dasgupa & Siddharth Kothari, *'Fair Use' in the Age of AI* (April 29, 2025), available at: <https://corporate.cyrilamarchandblogs.com/2025/04/fair-use-in-the-age-of-ai/#:~:text=The%20advent%20of%20large%20language,and%20the%20dissemination%20of%20knowledge.> (last visited January 12, 2026).

⁵⁶ Christophe Geiger, Giancarlo Frosio & Oleksandr Bulayenko, *"The Exception for Text and Data Mining (TDM) in the Proposed Directive on Copyright in the Digital Single Market - Legal Aspects"* SSRN Electronic Journals (January 2018), DOI: 10.2139/ssrn.3160586

⁵⁷ *Ibid.*

⁵⁸ Jill Ross & Rod Harradine, *"Fashion value brands: The relationship between identity and image"*, *Journal of Fashion Marketing and Management* (July 2011), DOI: 10.1108/13612021111151914

of the legal standards.⁵⁹ Instead of determining whether an output of AI is similar to a previous design, the question can require evaluating whether the system wrongly takes the expressive value of fashion, which would compromise the normative objectives of copyright.⁶⁰ This can include the incorporation of ideas of unfair competition, misappropriation or even the moral right to eliminate harms that are beyond the reach of copyright.⁶¹ Fashion law is a harsh test bed in which AI can be experimented in a creative production to create laws on infringement that recognize authorship without hand but leave room to innovation and cultural interaction.⁶²

Chapter 4

Rethinking Authorship, Originality, and Liability in AI-Generated Fashion Outputs

The fast adoption of artificial intelligence in fashion design undermines the underlining postulates of the current copyright law especially that which relates to authorship, originality and infringement.⁶³ In situations where AI systems create fashion based on their training on the visuals of a runway, as opposed to copying a particular design, the conventional legal frameworks fail to find the source of responsibility and safeguard the creative work.⁶⁴ This tension is aptly expressed in the idea of authorship without hands because the creative outputs are produced without

⁵⁹ Chaitanya Vohra, *The Case of Copyright Infringement in the Use of Training Artificial Intelligence Vis-À-Vis the Positions in India & Us: A Critical Analysis* (May 16, 2024), available at: <https://www.iiprd.com/the-case-of-copyright-infringement-in-the-use-of-training-artificial-intelligence-vis-a-vis-the-positions-in-india-us-a-critical-analysis/>. (last visited January 12, 2026)

⁶⁰ Härkönen, Heidi, *The Impact of Artificial Intelligence on the Fashion Sector: A Moral Rights' Perspective* (September 15, 2023). Forthcoming in E Rosati – I Calboli (eds), *The Handbook of Fashion Law* (Oxford University Press, 2025). Chapter 36., Available at SSRN: <https://ssrn.com/abstract=4573087>.

⁶¹ *Ibid.*

⁶² Heidi Harkonen, “*Fashion piracy and artificial intelligence - does the new creative environment comes with new copyright issues?*”, *Journal of Intellectual Property Law and Practice* 15(3): 163-172 (March 2020), DOI:10.1093/jiplp/jpaa021.

⁶³ Härkönen, Heidi, *The Impact of Artificial Intelligence on the Fashion Sector: A Moral Rights' Perspective* (September 15, 2023). Forthcoming in E Rosati – I Calboli (eds), *The Handbook of Fashion Law* (Oxford University Press, 2025). Chapter 36., Available at SSRN: <https://ssrn.com/abstract=4573087>

⁶⁴ Srikant Manchiraju, *The Ethical Thread: AI's Role in the Tapestry of Fashion*, *AI & SOCIETY* 40(5): 4029-4035 (January 2025), DOI: 10.1007/s00146-024-02151-3, available at: https://www.researchgate.net/publication/387871658_The_ethical_thread_AI's_role_in_the_tapestry_of_fashion.

any fixation or intent on behalf of humans in the traditional meaning.⁶⁵ This analytical note explores the way that the law of copyright could redefine its doctrines to meet AI-generated fashion that uses diffuse aesthetic vocabularies, as opposed to recognisable protected works.⁶⁶

Traditionally, the concept of authorship in copyright has been pegged on human agency, will and control. Fashion design already holds a gray area in this structure as most jurisdictions safeguard very few details about garments, including surface decoration or detachable artistic elements.⁶⁷ This is made even more difficult by AI that puts an extra barrier between human creativity and the end product.⁶⁸ In cases where a designer makes requests on an AI system that has been trained on runway aesthetics, the resulting design can not be said to have been created by one particular human designer, or by a logical sequence of creative choices.⁶⁹ The second issue is whether to attribute authorship to a human prompter, the one creating the AI system, or none, and the output should be in a quasi-public space.⁷⁰ Authorship without hands is the idea of authorship without hands implies that the existing human-centric notion of authorship might be conceptually inappropriate in the context of generating creative value through an AI mediated process.⁷¹

The threshold requirement of originality of works, which qualifies them to enjoy copyright safeguards, is not an exception. The copyright law does not insist on

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Saptadip Nandi Chowdhury, *Fashion Law and Intellectual Property: Can you Really Copyright a Dress?* (August 12, 2025), available at: [https://www.khuranaandkhurana.com/fashion-law-and-intellectual-property-can-you-really-copyright-a-dress#:~:text=Challenges%20in%20protecting%20IP%20in,the%20originality%20and%20its%20brand.\(last%20visited%20January%2013,%202026\)](https://www.khuranaandkhurana.com/fashion-law-and-intellectual-property-can-you-really-copyright-a-dress#:~:text=Challenges%20in%20protecting%20IP%20in,the%20originality%20and%20its%20brand.(last%20visited%20January%2013,%202026))

⁶⁸ *Ibid.*

⁶⁹ Georgy Sunny, Vijayalakshmi T., Manuprasad Mathew & Shangrella M K Rajesh, *AI in Fashion System- Design to Customer Feedback*, *Journal of the Textile Association* (January 2025), ISSN 0368-4636, available at: https://www.researchgate.net/publication/395639586_AI_in_Fashion_System_Design_to_Customer_Feedback.

⁷⁰ Anithi Gaidartzi & Irini Stamatoudi, *Authorship and Ownership Issues Raised by AI-Generated Works: A Comparative Analysis* (August 2025), available at: https://www.researchgate.net/publication/394637981_Authorship_and_Ownership_Issues_Raised_by_AI-Generated_Works_A_Comparative_Analysis.

⁷¹ Michael D. Murray, *Tools Do Not Create: Human Authorship in the Use of Generative Artificial Intelligence* (January 2023), SSRN Electronic Journal, DOI:10.2139/ssrn.4501543, available at: https://www.researchgate.net/publication/372320115_Tools_Do_Not_Create_Human_Authorship_in_the_Use_of_Generative_Artificial_Intelligence.

novelty but it demands originality and minimum creativity.⁷² To the extent that they are statistically produced and not copied, AI-generated fashion outputs that are trained on runway aesthetics will pass a formal originality test.⁷³ But this originality is structural in its nature and it arises out of amalgamated aesthetic designs, which are obtained out of preceding collections.⁷⁴ The challenge is that it is hard to tell what has been done lawfully by the system of AI and what cannot be done as the system learns trends, silhouettes, color schemes, and stylistic patterns instead of individual, copyrightable items.⁷⁵ Individually, 3D printing has demonstrated the ability to produce something new and novel, which is more akin to variation than newness in fashion where trends are always iterative and cyclical.⁷⁶

The very process of training causes doubts with upstream infringement. When an AI system is trained on large collections of runway images, the question arises as whether it is unauthorized reproduction or falls under exceptions like it is a fair use or text-and-data mining exception.⁷⁷ The case on infringement is weakened when the training itself aims at aesthetics as opposed to designs *per se*, because the copyright law has equally not been used to guard styles, concepts, or general ideas of aesthetics.⁷⁸ Nevertheless, the aggregate extraction of aesthetic value of protected works could still harm the economic and moral interests of the designers, especially in

⁷² Varsha Jhavar, “*Copyright Doctrine of Conceptual Separability: Separating the Artistic from the Utilitarian*”, available at: spicyip.com/2020/10/copyright-doctrine-of-conceptual-separability-separating-the-artistic-from-the-utilitarian. (last visited January 13, 2026)

⁷³ *Ibid.*

⁷⁴ Finnegan, Henderson, Farabow, Garrett & Dunner, LLP “*Mind the Copyright: The UK’s AI and Copyright Conundrum*” (June 20, 2025), [www.lexology.com/library/detail.aspx?g=e3394b01-f6f8-477e-8020-](https://www.lexology.com/library/detail.aspx?g=e3394b01-f6f8-477e-8020-80dab7e92bc8#:~:text=Maintaining%2C%20clarifying%2C%20or%20removing%20provisions,a%20computer%20in%20circumstances%20where)

[80dab7e92bc8#:~:text=Maintaining%2C%20clarifying%2C%20or%20removing%20provisions,a%20computer%20in%20circumstances%20where](https://www.lexology.com/library/detail.aspx?g=e3394b01-f6f8-477e-8020-80dab7e92bc8#:~:text=Maintaining%2C%20clarifying%2C%20or%20removing%20provisions,a%20computer%20in%20circumstances%20where).

⁷⁵ Matthew Hooker, “*Naruto v. Slater: One Small Step for a Monkey, One Giant Lawsuit for Animal-Kind*”, 10 Wake Forest Law Review Online 15 (February 5, 2020), papers.ssrn.com/sol3/papers.cfm?abstract_id=3533194

⁷⁶ *Ibid.*

⁷⁷ Raj Kumar Yadav, “*AI-Generated Drug Innovations and Indian Patent Law: Legal Challenges and Ethical Responses*” (June 16, 2025) DOI: 10.20944/preprints202506.1166.v1 www.researchgate.net/publication/392726439_AI-Generated_Drug_Innovations_and_Indian_Patent_Law_Legal_Challenges_and_Ethical_Responses

⁷⁸ Rosa Ballardini, Melanie A. C. Sarantou, Heidi Pietarinen & Heidi Härkönen, “*Nature’s Own Intellectual Creation: Copyright in Creative Expressions of Bioart*” (June 2023), www.researchgate.net/publication/371948143_Nature's_Own_Intellectual_Creation_Copyright_in_Creative_Expressions_of_Bioart/link/649d7793c41fb852dd3e5b60/download?_tp=eyJjb250ZXh0Ijpb7ImZpcnN0UGFnZSI6InB1YmtpY2F0aW9uIiwicGFnZSI6InB1YmtpY2F0aW9uIn19.

the cases of AI-created products that will compete on the market.⁷⁹ Tension here spells out a discrepancy between the official doctrine, which condones the act of stylistic borrowing, and the actualities of creative industry, which is more and more influenced by data-driven imitation.⁸⁰

The legal environment is also complicated because of liability of downstream outputs.⁸¹ Should an artificial intelligence-generated garment be somehow similar to an already known design, then to establish liability, one needs to find a legally involved party? The human user can be ignorant or unintentionally, the AI developer might be indirectly controlled and the AI system itself is not a legal person.⁸² The classical infringement law based on the principles of accessibility and substantial similarity can be hardly used in situations where the similarity is due to probabilistic acquisition of patterns and not to conscious copying.⁸³ Such diffusion of agency is likely to produce gaps in accountability, where the negative or infringing results are produced without a clear point of accountability.⁸⁴

Before reconceptualizing infringement in this respect, it might be necessary to change the emphasis toward individual copying toward systemic risk and governance.⁸⁵ Instead of inquiring of a specific output whether or not it infringes on a specific design, the law may seek to understand whether or not AI systems are designed, trained, and implemented in a manner that would mitigate market displacement and

⁷⁹ Rajiv Sharma and Ninad Mittal, “*Artificial Intelligence Lacks Personhood To Become The Author Of An Intellectual Property*” (September 22, 2023), <https://www.livelaw.in/law-firms/law-firm-articles/artificial-intelligence-intellectual-property-indian-copyright-act-singhania-co-llp-238401> (last visited January 13, 2026).

⁸⁰ Katrina Geddes, “*Generative AI’s Public Benefit*” (June 21, 2024), papers.ssrn.com/sol3/papers.cfm?abstract_id=4865510.

⁸¹ Audrey Aurelia Chang, Cynthia, Devita & Jihad Fahri Ramadhan, “*Fashion Trend Forecasting Using Machine Learning Techniques: A Review*” (November 2021) DOI:10.1007/978-3-030-90321-3_5, www.researchgate.net/publication/356278072_Fashion_Trend_Forecasting_Using_Machine_Learning_Techniques_A_Review.

⁸² *Ibid.*

⁸³ Mihir Wagh, “*Fair dealings and fair use: Critically Analyzing the Copyright Exemption Doctrines in Place in India and the United States*”, (August 29, 2022) articles.manupatra.com/article-details/FAIR-DEALINGS-AND-FAIR-USE-CRITICALLY-ANALYSING-THE-COPYRIGHT-EXEMPTION-DOCTRINES-IN-PLACE-IN-INDIA-AND-THE-UNITED-STATES (last visited January 13, 2026)

⁸⁴ *Ibid.*

⁸⁵ Felix Kleine, “*Perception of Deepfake Technology - The Influence of the Recipients’ Affinity for Technology on the Perception of Deepfakes*” (August 2022), www.researchgate.net/publication/364254498_Perception_of_Deepfake_Technology_-_The_Influence_of_the_Recipients'_Affinity_for_Technology_on_the_Perception_of_Deepfakes.

over-appropriation.⁸⁶ In the field of fashion, where copyright powers are already restricted, the supplementary principles like unfair competition, passing off, design protection can have a greater role in alleviating the AI-related harms.⁸⁷ The regimes tend to be more capable of dealing with confusion, misappropriation and free-riding which are not produced by the rigid practice of copying.⁸⁸

Finally, reconsidering authorship, originality, and liability in AI-generated fashion products would require a more refined view of creativity as a technological and distributed process.⁸⁹ The authorless paradigm does not mean that no human creativity is involved but instead its restructuring between designers, data, and algorithms.⁹⁰ In order to stay relevant, copyright law will have to wrestle with this change by establishing the legal nature of AI-assisted creation, and leave room to aesthetic development and competition.⁹¹ The fashion industry, where inspiration has never

⁸⁶ Jochen Hartmann, Samuel Domdey & Yannick Exner, “*The power of generative marketing: Can generative AI create superhuman visual marketing content?*” (September 2024) DOI: 10.2139/ssrn.4597899,

www.researchgate.net/publication/375480180_The_power_of_generative_marketing_Can_generative_AI_create_superhuman_visual_marketing_content.

⁸⁷ Dr. Ragini P. Khubalkar, “*AI AND INTELLECTUAL PROPERTY IN THE DIGITAL AGE: EMERGING CHALLENGES IN INDIAN COPYRIGHT AND TRADEMARK LAW*”, IPR Journal of Maharashtra National Law University, Nagpur; Volume II, Issue II, December 2024, pp. 87-96, www.nlnunagpur.ac.in/PDF/Publications/CI-Dec-2024/8.%20AI%20AND%20INTELLECTUAL%20PROPERTY%20IN%20THE%20DIGITAL%20AGE.pdf#:~:text=The%20study%20also%20considers%20the%20dual%20role,advanced%20detection%2C%20monitoring%2C%20and%20rights%20management%20tools.

⁸⁸ Ashish Deep Varma, “*Intellectual Property Rights in the Metaverse: Protecting Digital Assets and Virtual Real Estate*” (March 25, 2025), www.barandbench.com/view-point/intellectual-property-rights-in-the-metaverse-protecting-digital-assets-virtual-real-estate#:~:text=Protecting%20Digital%20Assets%20in%20the,law%20and%20emerging%20legal%20frameworks.&text=Register%20Your%20IP:%20If%20you,assets%20and%20identify%20potential%20infringements. (last visited January 13, 2026)

⁸⁹ Christophe Geiger & Vincenzo Iaia, “*Fashion, Intellectual Property and Freedom of Artistic Expression in the Age of Metaverse and AI: A Digital Constitutionalist-Approach*” *European Intellectual Property Review*, Vol. 46, Issue 9, 2024, pp. 555-570, papers.ssrn.com/sol3/papers.cfm?abstract_id=4914942. (visited June 24, 2025; 01:55 PM)

⁸⁹ Xiangyu Mu, Haijun Zhang, Jianyang Shi & jie Hou, “*Fashion intelligence in the Metaverse: promise and future prospects*” (February 2024) *Artificial Intelligenc Review* 57(3)DOI:10.1007/s10462-024-10703-8,

www.researchgate.net/publication/378338572_Fashion_intelligence_in_the_Metaverse_promise_and_future_prospects.

⁹⁰ Bharati Rathore, “*Exploring the Intersection of Fashion Marketing in the Metaverse: Leveraging Artificial Intelligence for Consumer Engagement and Brand Innovation*” (August 2017), *International Journal of New Media Studies* 4(2):2394-433; DOI:10.58972/eiprmj.v4i2y17.108, www.researchgate.net/publication/372217722_Exploring_the_Intersection_of_Fashion_Marketing_in_the_Metaverse_Leveraging_Artificial_Intelligence_for_Consumer_Engagement_and_Brand_Innovation.

⁹¹ Yvonne Nyaboke, “*Intellectual Property Rights in the Era of Artificial Intelligence*” (August 2024) *Journal of Modern Law and Policy* 4(2):57-72 DOI:10.47941/jmlp.2162,

been an individual undertaking, but a process of iteration, the issue is not to freeze the creativity but to make sure that the shift to AI-enhanced design does not take away the incentives, the recognition and equity that the creative ecosystem lives on.⁹²

Chapter 5

Conclusion: Toward Aesthetic Commons or Regulatory Intervention?

The emergence of artificial intelligence systems that are trained on runway aesthetics as opposed to recognizable fashion designs essentially disrupts the traditional logic of copyright which has long caused its success to rely on the existence of a human creating it and its existence in a material form. Indeed, as this study has shown, the products of AI generated fashion are not necessarily the copying of particular garments but the statistical digestion of fashion signals silhouettes, colour narratives, material sensibilities, and thematic coherence as a whole that constitute the creative identity of a particular designer. The authorship without hands reveals a regulatory loophole, and the copyright law is unlikely to be supportive of abstract styles, and the cumulative appropriation of the aesthetic labor via AI training is likely to challenge the fairness and sustainability of creative ecosystems in fashion.

Viewing runway aesthetics as a subset of an unrestricted aesthetic common ground is a mistake that makes the extractionary practices of the aesthetic seem normal, and this pattern is especially harmful to designers, especially those with the marginalized or independent background, whose forms of visual expression are most prone to being sucked into the algorithm. In comparison to conventional inspiration, AI is scaled, fast and opaque to an extent that diffuse aesthetic influence is turned into systematic market replacement. But broadening copyright to include aesthetics or style would jeopardize the consistency of doctrine and stifle innovation by setting the historically functioning utilitarian cultural vocabulary in aspicuous entrapment. The question is

www.researchgate.net/publication/382842813_Intellectual_Property_Rights_in_the_Era_of_Artificial_Intelligence.

⁹² Andres Guadamuz, "Can the monkey selfie case teach us anything about copyright law?" (February 21, 2018), www.wipo.int/web/wipo-magazine/articles/can-the-monkey-selfie-case-teach-us-something-about-copyright-law-40287. (last visited January 13, 2026)

not, therefore, whether the aesthetics of fashion are to be possessed or not, but how the law can recognize the contribution of the creative, and yet not to fall into the pit of over-propertisation.

The subtle regulatory reaction is better as opposed to the two-pole decision of laissez-faire commons and strict copyright expansions. The development of sui generis protections, or other adjacency rights, specific to AI training practices, with respect to the use of datasets and not outputs, is one of the possible directions. Compulsory disclosure policies on training information, and allow designers to choose the option, or license training information, would realign the bargaining power without redefining authorship. These actions would be in line with the new forms of data governance and the expression of the limits of copyright without neglecting the economic worth inherent in curated aesthetic collections.

Also, the doctrines of unfair competition and misappropriation can provide the flexible instruments to solve the situation when AI-generated fashion is significantly replacing or diminishing the image of a designer in the market, despite the absence of literal copying. Governance by the industry, such as the mind-sets on ethical AI and collective licensing formats, need to be added to the legal reform to promote collective responsibility between fashion houses, technology developers, and platforms. Finally, the future of fashion innovation lies in the need to keep the porosity of aesthetic exchange intact without being algorithmically enclosed in the future. It is not necessary to provide AI with authorship, or to establish aesthetics as property, but to develop regulatory frameworks that will provide creativity to be both generative and fair in a machine-mediated design age.

In a final remark, as artificial intelligence gradually gets to learn off runway aesthetics instead of recreating individual designs of a garment, the tenets of authorship in fashion are silenced, but shaken fundamentally. A system where creative output is based on a statistical inference rather than human intent is something the law has a hard time accommodating, given that the law has always been focused on identifiable creators and tangible expression. The use of AI to create fashion does not replicate the conventional meaning of the word; the algorithms internalize the models, ratios, textiles, and moods, and then reassign them to produce products that are both

recognizable and indefinite. Such indeterminacy reveals a disparity between the way fashion creativity functions in reality and the current concept of copyright infringement. The aesthetic borrowing, diffusion of trends, and reinterpretation has always been the main source of fashion. AI only makes this process faster and more organized and makes visible what was previously tacit and human-oriented. But the volume, velocity and transparency of AI training elicit valid inquiries of inappropriate takeover, especially where expensive runway looks customarily safeguarded by brand equity, instead of copyright, are auto-generated and made readily accessible. The issue, however, is not merely the question of whether AI is infringing or not, but rather whether current legal systems can be used to differentiate between the unlawful extraction and the legitimate inspiration in a computational sense. There is no need to give up on copyright in order to rethink authorship without hands, although it will necessitate a re-balance of its premises. Attribution, originality, and infringement might require to be interpreted less as the issues of visual similarity and rather as the issues of market substitution, data sourcing, and power imbalance between fashion houses and AI developers. Correspondingly, protective narcissism that leads to expansion of protection would be the same as close the door to innovation in an industry of historic fluidity and remix. Finally, there should be a question of the AI being trained on runway aesthetics because it makes fashion law face an unpleasant reality; creativity in fashion has never been so individual or so formally demarcated as the doctrine of copyright would have us think. This tension is not created by the emergence of generative systems, but inflated. The attitude of the law to the AI will not only determine the future of fashion, but also the degree to which fashion as a collective, iterative, and culturally infused practice will be able to persist into the future.