

Fashion Law

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Cases and Materials

Guillermo Jimenez

ASSOCIATE PROFESSOR

DEPARTMENT OF INTERNATIONAL TRADE AND MARKETING
FASHION INSTITUTE OF TECHNOLOGY

AND

ADJUNCT PROFESSOR

BROOKLYN LAW SCHOOL AND NYU STERN SCHOOL OF BUSINESS

Barbara Kolsun

PROFESSOR OF PRACTICE

AND

CO-DIRECTOR

FASHION, ARTS, MEDIA & ENTERTAINMENT (FAME) LAW CENTER
BENJAMIN N. CARDOZO SCHOOL OF LAW



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Foreword and Acknowledgments

When the two authors of this book (Guillermo Jimenez and Barbara Kolsun) met for lunch in 2004 at a delightful Italian restaurant near Madison Square Park in New York City, we formed a partnership (and friendship) with an ambitious goal: the creation of a new legal discipline that would be called Fashion Law. Within a decade, our project had succeeded beyond our expectations. After the publication of our first book on Fashion Law by Fairchild Publishing in 2010, a number of other excellent books have followed, and our own book went into an expanded second edition in 2014. Today, Fashion Law is taught at a number of law schools across the country, and Fashion Law Committees and groups have formed at bar associations around the world.

We began our own collaborative project with the formation in 2005 of an ad hoc Committee on Fashion Law at the Fashion Institute of Technology (F.I.T.). At our first meeting, we were honored to host as keynote speaker the CEO of Zac Posen, Inc., Susan Posen (Zac's mother). A close friend of Barbara's, Susan Posen was the embodiment of legal and fashion knowledge—she had formerly been a law partner and appreciated the strategic importance of legal issues to the growth of a fashion company. As she explained to us, when her son's business was launched and needed counsel, her own experience as an attorney proved invaluable, and thus she agreed with the view that Barbara and I had expressed: the fashion industry needed enhanced legal support.

At the first meetings of the Fashion Law Committee, we invited a cross-section of top attorneys in fashion, both in-house and outside counsel. We made the case to them for the creation of Fashion Law. We argued that fashion had grown larger than the entertainment and sports sectors, yet it still lacked its own law school curricula and professional handbooks and treatises. Moreover, misinformation was endemic in the fashion industry. We had all heard of the erroneous rules of thumb that have spread throughout the industry on ways to avoid copyright infringement (e.g., “3 changes and you're OK” or “change the design 30% and it's fine”).

The response from participants was extremely supportive: all agreed that it was time to create the legal discipline of Fashion Law, and many volunteered to support our efforts. The Committee discussed possible initial projects and it was decided that we first seek to write a handbook on fashion law. With the support of fashion publisher Fairchild Publishing, we embarked on this venture in 2007. Our first order of business was to conduct a survey of attorneys practicing in fashion to ask them what they thought were the most important issues in Fashion Law. After meeting to discuss the survey results, we decided that the most important legal topics to focus on were: fashion I.P. generally (copyright, trademark and patent), licensing, anti-counterfeiting, employment law, retail leasing, and import customs law.

At a meeting in 2006 we were honored to host Professor Susan Scafidi, who brought us up to date on the latest legislative developments as regarded design piracy protection. Professor Scafidi supported the goals of our Fashion Law project at F.I.T. and went on to

establish the Fashion Law Institute at Fordham Law School. In her testimony before Congress on behalf of anti-piracy legislation, as in her support of the CFDA's anti-piracy efforts, Professor Scafidi marshalled impressive resources to promote the legal interests of the fashion industry.

After the publication of our legal guide to Fashion Law in 2010, Barbara and I were heartened to see that law schools began to create permanent courses on Fashion Law (we have taught such courses at Cardozo Law School, NYU Law School, Fordham Law School, and Brooklyn Law School, and our colleagues have taught similar courses at New York Law School, University of Pennsylvania Law School, and many other institutions; Cardozo Law School's FAME program grew out of the first Fashion Law course taught there by Professor Kolsun and Lee Sporn, General Counsel of Michael Kors). We were also encouraged by the bar association committees that soon formed, such as the New York State Bar Committee on Fashion Law that was created by Dave Faux, the New York County Bar Association Committee formed by Joseph Murphy, and the Association of the Bar of New York City Committee that was established by Monica Richman.

Over the years our various efforts in the development of fashion law have been supported by a number of prominent attorneys from around the world. We would like to thank here, in a non-exclusive list, George Gottlieb, Marc Misthal, Heather McDonald, Charles Colman, David Bernstein, Karen Artz Ash, Donald Kreindler, Lee Sporn, Ted Max, Michael Colosi, Henry Welt, Matthew Epstein, Frances Hadfield, Amanda Simpson, Sam Eichner, Connie Carnabuci, Victoria White, Monica Richman, Joseph Murphy, Joseph Gioconda, Joseph Forgione, Ashima Dayal, William Jelinek, Charles Klein, Steve Gursky, Tom Pitegoff, Antonio Borrelli, Valerie Radwaner, Raphael Russo, Frank Lord, Kristin Kosinski, Doreen Small, Julie Zerbo, Deborah McNamara, Margarita Serrano, Lara Corchado, David Cutner, and Anita Surendran.

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Guillermo Jimenez
Fashion Institute of Technology, Brooklyn Law School

Barbara Kolsun
Cardozo Law School

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