

## Wig & gown in vogue on the catwalk | London fashion law firm Crefovi

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**Annabelle Gauberti, founding partner of London fashion law firm Crefovi, and Elisabeth Payton, journalist at the Financial Times, publish some proprietary research on the law of luxury goods and fashion law, entitled “Wig and gown in vogue on the catwalk”.**

**Busiest member of a label’s in-house team is often not the model**

## or designer.

Behind the scenes during a fashion week, it's not just models, designers and their production teams working frantically backstage. Perhaps the busiest member of a label's in-house team might not be the first figure to spring to mind: its lawyer.

With image copyright and music licensing issues, last-minute customs shipments, employment contracts and models' visas, demand for legal specialists with luxury goods expertise has risen stratospherically. Few global industries outperform the booming €185bn fashion and luxury sector, and law firms are rapidly evolving to understand the needs and priorities of some of the world's most lucrative retail brands.

"Fifteen years ago there were no 'luxury lawyers'," says Hugh Devlin, a partner at Withers Worldwide in London who has guided the creative directors of Mulberry, Givenchy and Alexander McQueen, and advised Natalie Massenet on her sale and reinvestment in Net-a-Porter.

"I came into it by chance," he says. "It was a hobby as much as anything, and there was little competition. Over the last two to three years, however, there has been a flurry of activity, thanks in part to the increase in private equity buyouts and IPOs. Post-2008, corporate lawyers have sat up and taken notice that luxury is a fascinatingly complex business. Plus, there's a lot of money to be made." Mr Devlin says brand expansion into new and emerging markets means law firms outside traditional fashion capitals are offering their services to luxury clients. Interest from ambitious young law graduates has exploded accordingly. The Fashion Law Institute, part of the law school of Fordham university in New York, offers courses on the legal needs of the industry, ranging from garment design and intellectual property rights to trade regulations and sustainability. The institute, founded in 2006, is the only one of its kind in the world. "Since we launched the course, applications with an interest in luxury law have skyrocketed," says academic director Susan Scafidi. "And our student profile is changing. Several years ago, applicants were mostly female and it was unfairly deemed as a fluffy, non-serious option. Yet as [the sector] grows in reach, we've welcomed a lot more men, which I see as indicative of fashion law having become more mainstream. "Today's legal students recognise that taking a luxury course has nothing to do with having a 'passion for fashion'; it's about strategically prepping yourself for the challenges of a major growth field." Leading business schools such as ESSEC in Paris are following suit, offering luxury law courses as part of their MBA curriculum. In London pro-bono lawyers frequently give seminars to design students at the Royal College of Art and Central Saint Martins. Creative professionals, and those who teach them, recognise that they need to be every bit as aware of the changing landscape of luxury law as their commercial counterparts. Both Mr Devlin and Prof Scafidi attribute the boom in fashion law to the catalyst of globalisation. "Companies can't just be filing their trademarks in foreign courts," says Prof Scafidi. "They have to be enforcing them, too, and that's where things get difficult. "You must tirelessly protect your brand identity in every place you do business and have a constant awareness of who is

exploiting your patents. Keeping track of worldwide intellectual property rights is a relentless task for fashion brands and an area where the industry loses billions of dollars a year.”

Given that the longevity of a luxury brand’s equity is tied up with its reputational value, counterfeiting has long been a legal issue for the sector.

LVMH famously wields a “zero tolerance” policy, and will take even small-time manufacturers to court. The group’s in-house team of 60 employees also educate law enforcement officials about how to clamp down on street sales.

“The cases brought against Ebay by LVMH, Tiffany & Co and other luxury goods groups, regarding third-party policing of knock-off goods, marked a legal watershed,” says Prof Scafidi.

Alongside the Council of Fashion Designers of America, Prof Scafidi is a driving force behind the Innovative Design Protection and Piracy Prevention Act, which is waiting to be heard by the US Congress.

Industry infighting is rife, be it against big high street names trying to sell cheap catwalk copies or between high-end labels themselves.

The case between two French labels, Yves Saint Laurent and Christian Louboutin, over the trademark protection of red shoe soles will set a precedent for the protection of a colour in the US fashion industry – if Mr Louboutin wins.

“The question is essentially this: can a colour really be trademarked in the same manner as a print?” says Louise Nash, a London-based partner of Covington & Burling, the US law firm, who counts Armani among her clients.

“When can the use of colour on a portion of apparel go from being merely a design element to a source-identifying trademark, making it capable of legal protection? The fight has divided the fashion industry as both sides and their allies have a great deal at stake in terms of their profit and prestige.

“We are still a long way away from any form of IP harmonisation in the luxury sector.”

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