

Fashion, copyright and artificial intelligence – new creative environment comes with new copyright issues

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Abstract

The combination of AI and fashion design poses an interesting set of copyright-related questions. Artificial intelligence (“AI”) is slowly changing the world of creativity. Nowadays algorithms are capable of creating works that previously were created solely by human authors. For instance, creative outputs by writers, journalists, musicians, artists and designers are being challenged by AI-generated works. More often than not, the creative result of AI-driven processes is so good that it is impossible for an outsider to tell whether a work is a result of human intelligence or artificial intelligence. This creates new challenges for the copyright system, which is primarily created in order to protect the creative endeavours of human creators. Thus, the changes caused by AI to the professional environment in creative industries raise issues regarding copyright law as well.

The fashion industry provides a particularly fascinating research context for contemplating the copyright issues related to the use of AI. Fashion is an extremely IP-intensive industry, which is known for its complex copyright environment. Innovation – but also imitation and inspiration – are key parts of the fashion world. That added to fashion’s status as *an applied art*, or as *useful articles*, has led to gaps in protection which has facilitated copying. Thus, it is clear that fashion works in an extremely challenging IP environment. The increasing use of AI in the industry is likely to stir the pot even more, and perhaps even increase fashion copying. This creates a need to take a further look at the copyright issues that may arise.

This article discusses the different ways in which AI can be used in the fashion industry, and analyses the copyright-related problems caused by such use. Due to the fashion world being notorious for its copying issues, this article has a particular focus on potential copyright infringements related to the use of AI. The article also suggests possible legal solutions to deal with such problems. It presents different options how the copyright system might treat AI-generated fashion designs, taking into account also the question of sustainability. It concludes that creating more copyright-free space in the area of fashion would not be ideal, since it might boost fast-

fashion copying even more and thus have a negative effect on the sustainable development of the industry.

Keywords: copyright, fashion, artificial intelligence, infringement, copying, sustainability