

The Perceptions of Apparel Design and Merchandising Students on Creativity and Apparel Design Copyright

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Abstract *The purpose of this study was to explore fashion design and merchandising students' perception of creativity and the copyright protection of apparel design. A survey with open-ended questions was developed and distributed to a total of 100 fashion major students with specializations in apparel design and merchandising from three different universities located in a northwestern state of the United States. A majority of respondents showed their awareness that copying apparel design is ethically wrong and counterfeiting is legally wrong. They were able to distinguish between copying and interpreting and were aware that incorporating limited elements from inspirations was ethically acceptable. However, many of the students look for design inspiration from secondary sources, such as existing designers' works which they observe over the Internet, magazines, fashion shows, and store shopping, which may pose them to the temptation to copy such ideas. Although fashion copyright protection law has yet to become enacted, a majority of respondents support passage of fashion copyright protection law. The results give support to the needs for addressing the creative problem-solving processes and ethical decision-making jointly within apparel design and merchandising curriculum.*

Key words *Student Perspectives, Creativity, Apparel Design Copyright, Innovative Design Protection Act*

Introduction

Technological developments such as the Internet, digital photography, and digital design platforms have enabled apparel manufacturers to produce copied (i.e., knock-off or line for line copies) products that hit the market long before the original designs can arrival (Lee, Lee, Salusso, & Lin, 2012). The U.S. fashion market is characterized by widespread copying. On one end of the spectrum, designers reference and pay homage to other designers by creatively incorporating design elements into their own designs. On

the other end, fast fashion copiers are making line-to-line copies of designers' original works. While copying itself is not a new issue, technology has now enabled mass copying at astonishing speeds. "Digital photography, digital design platforms, the Internet, global outsourcing of manufacture, more flexible manufacturing technologies, and lower textile tariffs have significantly accelerated the pace of copying" (Raustiala & Springman, 2006, p. 1715). Cheap and speedy overseas manufacturing operations allow knock-offs to hit retailers months before the original designs (Wilson, 2007). Consumers are often unaware that they are not buying the original design (Binkley, 2010). These types of prevalent copying practices in the industry may also have impact on students who are still in the process of learning to become a part of the industry. Apparel design and merchandising students may face dilemmas in their use of fashion information and fashion products in their creative processes.

Fashion production companies take advantage of the immediacy of fashion visual information in order to generate copied designs so fast that originators often have little opportunity to profit from their creative efforts in originating designs. This is considered design piracy. Fast fashion has become a major impact in the U.S. fashion market as well as the global fashion industry (Bhardwaj & Fairhurst, 2010). Fast fashion practices currently prevailing in the industry present an ethical dilemma in that copying unprotected designs remains legal in the U.S.; yet the fairness of the practice is easily questioned (Ferrill & Tanhehco, 2011). In response to the massive design piracy cases in the fashion apparel industry, lawmakers and copyright activists have made a few attempts to introduce fashion copyright laws. Copyright laws that extend beyond written material and original art to include entire apparel designs to provide three-year protection for copyrighted fashion products were introduced to the U.S. Congress in 2006, 2010, 2012 and 2013 (Lee & Lee, 2013). The advocates of Innovative Design Protection Act (IDPA) argues that the incidents of lawsuits related to fashion design copying has significantly increased with the success of some fast fashion companies (Jimenez & Kolsun, 2010). However, due to many complications, the IDPA (2012) did not pass all the listed years; the future of fashion design copyright continues to be in question.

The fact that many fashion designers' works are direct copies of other designers' poses an ethical question may it not be a legal issue, is it acceptable to allow this irresponsible practice? Students, who come across similar decision-making situations may also face the dilemma of whether or not to copy other designers' successful work. At the very least, it is imperative for college educators to become aware of the issue and teach college students to be cognizant of the difference between inspiration and intellectual theft.

This study aimed at examining fashion major students' perception of creativity in fashion product development and legal protection of apparel design. As they are the future leaders of the industry, it is important to learn about their viewpoints on copyright and the creative process. Understanding the current perception of students may help the educators develop an education program that can prepare the future leaders of the fashion industry to be more aware of the issue and to form more ethical stances in relation to the copyright and creativity issues.

Literature Review

Creativity and Copyright

Copyright is “a legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution (“Copyright”, 2015).” As a form of intellectual property, it is applicable to certain forms of creative work, and the work of art should be considered original in order to be eligible for copyright protection. The rationale for legally protecting or copyrighting a design work stands on the premise that the economic incentive provided for the creation and dissemination of aesthetic and intellectual works will foster creativity and facilitate innovative creations in the field (Abrams, 1992). In this sense, the issue of copyright protection is closely related to the definition of creativity in the field. In this section, we will examine the general definition of creativity and its components to lay foundation to the discussion of copyrightability of apparel design.

Defining creativity is a daunting project as it is hard and can create various ones. Psychologists are well known for their long history of disagreement over the definition of what creativity means. Interestingly, there are three different categories regarding the definition of creativity (Amabile, 1983); Process, person, and product. The first is related to process. Wertheimer (1945) and Koestler (1964) are the two main scholars who focus on process in the early stage of defining creativity. Wertheimer (1945) used the Gestalt position to define creativity and Koestler (1964) focuses on bisociative process- connecting two previously unrelated matrices of thoughts to produce new insight or invention. There are also other researchers such as Newell, Shaw and Simon focus on problem solving process of creativity. The second focus was on person. In 1949, J.P Guilford defined creativity in terms of the person, which was considered as a new starting point of modern creativity research. As he put “In its narrow sense, creativity refers to the abilities that are most characteristics of creative people” (Guilford, 1950, p. 444). His focus on personality characteristics surely set up a stage of focusing on trait approach. The third is product. It is a contemporary definition that are different from the previous ones as it uses characteristics of the creative product as the unique signs of creativity. The product can be as observable outcomes or responses (Amabile, 1983), effective surprise in the observer in adding to a shock of recognition (Bruner, 1962). The product criteria of novelty and appropriateness of value frequently found in most definitions of creativity (Stein, 1974). This third definition is most widely accepted as the most useful way of researching creativity for all researchers (Amabile, 1983).

In order to assess creativity, there are operational and conceptual definitions of creativity. Operational definition of creativity is based on product. Amabile (1983) puts it is necessary to have operational definition as in empirical research as the definition of creativity is based on subjective criteria and hard to get objective criteria. “A product or response is creative to the extent that appropriate over servers independently agree it is creative. Appropriate observers are those familiar with the domain in which the product was created or the response articulated. Thus, creativity can be regarded as the quality of products or responses judged to be creative by appropriate observers, and it can also be regarded as the process by which something so judged is produced” (Amabile, 1982, p. 1001). As aforementioned, it is

important to recognize that products or observable responses must be the main point of creativity.

Creativity is something that people can recognize and understand and frequently agree on, even when they are not given any guideline or clear definition (Amabile, 1982; Barron, 1965). Although it is necessary to have operational definition for empirical researches, it cannot fully explain a theory of creativity. Therefore, conceptual definition is necessary and it can be based on two essential elements.

“A product or response will be judged as creative to the extents that (a) it is both a novel and appropriate, useful, correct, or valuable response to the task at hand and (b) the task is heuristic rather than algorithmic.” (Amabile, 1983, p. 360). This conceptual definition is closely connected with novelty and appropriateness which are the major focus of creativity. The definition clearly shows that the task must be heuristic rather than algorithmic. It means the task is not clear and straightforward but it requires set of cognitive and motor operations which leads to an acceptable response or product. In addition, individual performer’s knowledge about the task is a significant factor determining the task can be algorithmic or heuristic (Amabile, 1983).

In order to define creativity, Amabile (1983) explains both operational and conceptual definitions are necessary. She puts “the conceptual definition can articulate the notion of creativity that underlies theoretical background as it can explain how the crucial characteristics of creative products evolve in the process of task engagement ... the conceptual definition is a best guess as to what appropriate observers are looking for when they assigned ratings of creativity to products ... it is not yet possibly specify novelty or appropriateness or straightforwardness in an objective manner” (p. 361).

Fashion Apparel Design and Intellectual Property Protection in the U.S.

Currently, fashion design exists in a “low-IP (Intellectual Property) regime” or intellectual property’s “negative space” (Raustiala & Sprigman, 2006, p. 1699). While some parts of the world such as the European Union, Japan, and India have strong legal measures behind intellectual property protection for apparel design, the United States has not yet enacted strong measures of protection (Hedrick, 2008). Limited protection for fashion designs comes only from three forms of U.S. intellectual property laws: trademark, patent and copyrights (Raustiala & Springman, 2006).

Trademark is a word, symbol, or phrase, used by a particular manufacturer or seller to identify their products and distinguish them from others. Trademark protection provides the full force of the law when copycats produce substantially identical products that are labeled with a protected trademark. Infringement of trademark is considered counterfeiting and legally fraudulent (Carreon, 2012). Protection of a trademark can extend beyond words, symbols, and phrases and may include the product’s color or its packaging, in case consumers associate such features with a particular manufacturer rather than the product in general. These aspects of a product that are considered to serve as identifying features of the manufacturer or seller are called trade dress. Some examples of trade dress are Nike’s distinctive orange color and the unique shape of Coca-Cola bottles. Trademark and trade dress protection are used extensively by apparel companies as a means of protecting their right to take advantage of unique design

features. At the same time, counterfeiting products that infringe trademark or trade dress are also prevalent for the same reasons.

If designs are patentable, U.S. patents do offer long-term protection and the protection is broader and powerful than copyrights (Paulins & Hillery, 2009). Patents, however, are associated with intellectual property of new inventions and granted only to new ideas. Some examples of patented fashion designs include hospital patients' gown with special features or Nike and Reebok shoes that are functionally distinguishable from competitors. However, the 'newness' of an apparel design is not easy to establish. Because most apparel designs are re-works of previously existing designs, this limits the application of patent to apparel items. Even if a patent is granted, processing can take two to three years. Considering the fast paced nature of fashion trends and the industry, the rate of fashion change makes patent protection largely unrealistic since many designs have become obsolete long before a patent can be granted (Smith, 2013). Current patent laws also leave the legal burden of protecting designs with originators who may not have the financial capacity to follow through on the legal process (Smith, 2013). No wonder it is not fully appreciated in the reality of the U.S. fashion industry.

U.S. copyright laws currently do not protect fashion designs. Even though fabric design such as an original pattern on a scarf, or a print of an artist's painting on a t-shirt can be copyrighted, unique cut of a garment or an innovative shape of a designers' dress are not copyrightable. Generally, fashion apparel design is not copyrightable due to the useful article exclusion (Raustiala & Springman, 2006). The Copyright Act defines a "useful article" as "an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information" (U.S. Copyright Office, 2012).

The Innovative Design Protection Act: The Attempts for Enacting Legal Protection

The Innovative Design Protection and Piracy Prohibition Act (IDPPPA) was introduced in July 2011 by House Representative Bob Goodlatte (IDPPPA, 2011). The IDPPPA, as well as its successor, IDPA of 2013, adds "fashion design" as a sui generis class of protectable design under Chapter 13 of the Copyright Act, Protection of Original Designs, and creates a short, three-year term of protection for fashion designs that provide a "unique, distinguishable, non-trivial and non-utilitarian variation over prior designs." (H.R. 2511 § 2(d), 2011). The exclusive rights afforded to the owner of designs protected under Chapter 13 are to "make, have made, or import, for sale or for use in trade, any useful article embodying that design;" and to "sell or distribute for sale or for use in trade, any useful article embodying that design" (17 U.S.C. § 1308, 2000). Under IDPPA/IDPA, there would be three types of fashion designs protected: (1) the appearance of the article of apparel as a whole, (2) original elements of the article of apparel, and (3) the original arrangement or placement of original or non-original elements of the article of apparel (H.R. 2511 § 2(a)(2)). The IDPPA/IDPA has an expansive scope and covers clothing, including outerwear and various accessories including footwear, headgear, handbags, and eyeglass frames (H.R. 2511 § 2(a)(2)). No prior registration with the Copyright Office is required, however a claimant seeking to enforce rights against an alleged infringer, must plead with particularity and prove that the in-

fringing article of apparel is “substantially identical” by showing that it is “so similar in appearance as to be likely to be mistaken for the protected design, and contains only those differences in construction or design which are merely trivial” (H.R. 2511 § 2(a)(10)). There are certain safe harbor provisions for innocent infringers and a home sewing exception for single copies made for personal use (17 U.S.C §1309(b), 2000; H.R. 2511 §2(h)).

Although these attempts have not yet been successful, they have started a fierce debate on the fashion industry's need (or lack thereof) for copyright protection. Advocates of IDPA argue that there is a common sense distinction between copying a fashion designer's work and being influenced by it. In other words, an intentionally copied work of another designer is obviously discernible. However, there still are controversies as to whether or not the fashion industry needs legal protection of intellectual properties; there may be pros and cons related to the issue.

Controversies on Legal Protection of Apparel Design: Pros and Cons

Determining whether any design should be granted protection must consider the balance between promoting innovation through reward and protection and promoting innovation by allowing others to build from such designs (*Wildlife Express Corp. v. Carol Wright Sales*, 1994). Among the arguments against design protection is “The Piracy Paradox” (Raustiala & Springman, 2006, p. 1691). According to this argument, apparel design copying paradoxically helps the industry be more creative and be more prosperous, with active innovation and investment so “piracy is not very harmful” (p. 1727). Law professors Raustigala and Sprigman argue that copying drives innovation in the fashion industry by “induced obsolescence” and the fashion industry does not need intellectual property protection to innovate (p. 1718). They proposed that innovation is better enhanced within the fashion industry without intellectual property protection. They also argued that it is difficult to find pure originality of design in fashion itself because many fashion trends stem from outcomes of transformed ideas drawn from many creative designers (Raustiala & Springman, 2006).

Under the Piracy Paradox model, unfortunately, designers of originals were seldom rewarded for their innovation. While fashion industry has thrived to an extent without intellectual property protection, part of this success is based on the success of fashion copyists. Mass copiers are free to ‘lift’ designs from creative designers without attribution or need for permission (Horyn, 2002). Thus, highly successful fast fashion retailers such as Zara, H & M, and Forever 21 benefit directly from not having fashion design copyright protection. Many fast fashion copyists reap the rewards of the innovation and investment of others without the expense involved in design creation.

Part of the ethical dilemma of copying fashion designs is identifying whether or not copying has or has not occurred. Hemphill and Suk (2009) considered interpretations as neither copies nor substitutions for original designs. Rather they proposed that when limited features were interpreted from the original along with addition of other design factors, the result was a creation of something new. They therefore supported the practice of design interpretation as a process for creating original fashion designs.

Those who are opposed to copyright protection of apparel design asserts that the fast reproduction of fast fashion products is rather to be celebrated as the 'democratization of fashion' (Lee & Lee, 2013). After all, those who benefits from copyright protection are bigger apparel companies or designer brands that have the ability to hire designers with the creativity to produce innovative designs. On the other hand, in the fields of music or software industry, the debate between 'copyleft' and 'copyright' is in progress. Copyleft, as opposed to copyright, enables an author to give the recipients of a copy of the work permission to reproduce, adapt, or distribute it. Reciprocity is presumed in copyleft: the recipients are required to also make all the resulting copies or adaptations be freely distributed. Since the notion of ownership is unclear in a participatory culture like contemporary digital culture (Jenkins, 2009), the advocates of copyleft assert that society in general would benefit when the knowledge and information are openly shared.

Industry Professional's Perspectives on Legal Protection of Apparel Design

Even though there was a fierce discussion in relation to whether or not legal protection of apparel design is necessary, little research has been conducted in relation to how this issue is perceived by industry professionals with one exception by Lee and Lee (2013). Lee & Lee conducted semi-structured interviews with the industry professionals in the U.S. in order to examine their perspectives on legal protection of apparel design. Their interviewees included fashion designers, merchandisers, and retail managers. According to their findings, the industry professionals perceived apparel creation process to involve creativity to certain extent. The definitions of creativity, however, varied by individual: for some, creativity was equated with originality, but for others, altering fit, details, and materials to make an expensive designer line affordable to their consumers were perceived as creative activities. The rampant design copying in the fashion business was perceived inevitable and is accepted as a part of their business.

Lee and Lee (2013) reported that the U.S. fashion industry professionals viewed the question of copying from a practical perspective rather than from an ethical point of view: the similarities in design were justified on the basis that they would sometimes occur as a result of referencing the same fashion trends, even though some acknowledged that intentional line-to-line copies were sometimes sought after; most interviewees thought that copying is unethical, but it was considered inevitable because 'consumers ask for it' or the copied products serve 'a different market.' According to their interview results, the professionals perceived the apparel industry as a system with different levels of brands: 'knock-off brands,' for which originality in design is less expected, and the 'major market brands,' that are expected to supply more innovative design items. These different types of brands serve different market in the industry, and the designers in the 'knock-off brands' are hired for the purpose of creating affordable knock-offs of 'major market brands,' keeping the industry performing as a system (Lee & Lee, 2103).

The industry professionals' perception of legally protecting apparel design was also examined in this study (Lee & Lee, 2013). The interviewees who work for national brands or retailers were skeptical about the effectiveness of fashion design copyright law, yet independent designers welcomed the legal

proposal and yearned for the law to pass the legislation. Researchers found that not many of the professionals were aware of the legislative efforts in general, yet concerns about the difficulties in judging the extent of similarities of design works as well as in establishing the originality of a garment design were mentioned in the interviews. As is shown in Lee & Lee, there are diverse viewpoints in the fashion industry regarding whether or not legal protection of apparel design is necessary. What seems evident from the study, however, is that unethical practices of intentional copying are prevalent and commonly justified in the industry (Lee & Lee, 2013).

Research Method

Research Questions

The purpose of this study was to explore fashion design and merchandising students' perspectives of creativity and copyright of apparel design. Students as the future leaders of the industry, it is imperative that they learn to understand the values of creativity and the ethical perspectives related to copying practices. By understanding the current perception of students, educators are able to develop education programs that can help the apparel design and merchandising students learn the difference between inspiration and intellectual theft. Based on the purpose, following questions are posited.

- Q1. What are students' perceptions of "creativity" in fashion design and fashion product development?
- Q2. What are students' perceptions of "ethical" use of others' ideas and ethical design process?
- Q3. What are students' perceptions of legal issues of fashion design and product development?

Procedure

A survey was developed by the researchers to closely investigate and classify apparel design and merchandising students' understanding, attitudes, and behaviors toward their use of various resources of visual information in their creation processes. In order to obtain detailed information of subjects' experiences and viewpoints, a majority of survey questions were open-ended. In addition, five categorical (yes/no) questions were also added to determine students' understanding of ethical and moral judgments regarding the subject matter. The survey was reviewed and the study was given Institutional Review Board approval.

Questions were specifically focused on how respondents obtained their design inspirations when carrying out class design assignments and how they differentiated between direct copying and being inspired by various resources of visual information on fashion trends. Furthermore, some questions were included regarding the knowledge of counterfeiting fashion products, fashion copyright law and finally their definition of creativity in fashion product development.

The survey was conducted twice, in January, 2011 and in March, 2012. A total of 100 fashion

major students with specializations in apparel design and merchandising from three different universities located in a northwestern state participated in the study. With safeguards to avoid duplicate responses, surveys were circulated within apparel design and merchandising classes. Since all subjects were women enrolled in apparel design and merchandising programs, age was used as the relevant demographic factor. Subjects averaged 21 years of age and survey responses were anonymous.

A hardcopy of survey questionnaire was given to each individual participant in selected apparel design and merchandising courses in Apparel and Textiles major. Participants were given enough time to freely write their opinions regarding the questions and the survey questionnaires were collected upon completion at the end of class.

A qualitative research approach was used to investigate the responses students provided to identify their perceptions on the given questions. The qualitative method was deemed appropriate as it was used to discover that no prior data existed. In addition, this method was particularly important to obtain detailed rich data as respondents are given an opportunity to provide their opinions and experiences in the fashion higher education contexts (Esterberg, 2002). The responses were first categorized by the first author based on the main themes, and the categorization was verified by the other two authors. Each of the responses were read several times to further identify recurrent themes.

Results and Discussion

Responses were analyzed using qualitative and descriptive analyses. Researchers classified open-ended responses using content analysis to interpret and aggregate similar responses. Frequencies were calculated for classified responses and all categorical yes/no responses. Results were organized within respective components of the survey (Table 1).

Table 1.
Summary of Responses

| (N=100) | | |
|--|---|------------|
| Questions | Answers | Percentage |
| How would you define “creativity” in fashion design and fashion product development | A process | 69% |
| | Product or ideas | 19% |
| | Personal expression | 6% |
| Where do you look for design inspiration when you create projects and complete design assignments? | Music, art, dance and photography | 15% |
| | Lifestyles, street wear, friends and people around me | 15% |
| | Culture, history, current events and personal experiences | 15% |
| | Nature, the seasons, landscape | 11% |
| | Books and movies | 10% |
| | Other | 35% |

| | | |
|--|---|-----|
| What makes the distinction between “copy/knock-off” and “interpretation/adaptation” in using other people’s design in your own creation process? | Copy/knock-offs and interpretations are different | 42% |
| | Incorporating limited inspiration from other designs is original design | 12% |
| | unethical nature of copying designs and the unfairness of the originators not getting the full benefit and credits of their efforts | 17% |
| | Not applicable/no response | 29% |
| Do you think it is “ethically” acceptable to use inspiration from other designer’s work in your own creation process? | Ethical | 94% |
| | unethical | 6% |
| Do you look to preexisting designer’s work for inspiration and/or to borrow any design elements? | always | 18% |
| | occasionally | 44% |
| | Do my own thing, ignored fashion trends | 4% |
| | Do not design | 26% |
| Do you think it is ethically acceptable to use inspiration from other designers’ work in your own creation process? | Yes | 96% |
| | No | 6% |
| Have you bought counterfeit garments? | Yes | 31% |
| | No | 69% |
| Have you heard of fashion copyright law? | Yes | 68% |
| | No | 32% |
| Are you in favor of fashion copyright being enacted? | Yes | 78% |
| | No | 22% |

How would you define “creativity” in fashion design and fashion product development?

A majority of subjects (69%) viewed creativity as a process of expressing new, unique and different ideas, being experimental, pushing the norm, setting your design apart and drawing attention to new ideas. This response put emphasis on the experimental nature of creativity as a process that leads to innovative apparel products.

A second viewpoint (19%) emphasized the product or ideas created. Here respondents focused on the outcome of the creativity process. In apparel design and merchandising, designs resulting from the creative process can be merchandised as products and introduced to consumers for them to purchase.

A few subjects (6%) viewed creativity as their own personal expression. People who expressed themselves through styling by adding their own personal flair or unique sense of fashion in an innovative way held this viewpoint. They consider their body to be a canvas, a means for creative outlet and for expression their identity. This result was interpreted as having a creative attitude but also feeling like they have the capacity to be inventive.

These responses to the meaning of creativity demonstrate that respondents were very aware of the creativity process and often acknowledged outcomes to be apparel and textile products. It seems that these respondents were less clear with recognizing the role of a creative attitude and overall capacity. It seems that apparel design and merchandising students would benefit from training in creativity processes that included addressing strategies for avoiding roadblocks to creativity. It is our concern that we expect apparel design and merchandising students to be inherently creative. We routinely evaluate the products of their creative process. However, faculty are not as committed to mentoring their creative process or reinforcing their attitude that they are indeed creative.

Where do you look for design inspiration when you create projects and complete design assignments?

This question was asked to specifically learn how creative process in apparel product development is perceived by the students. A majority of subjects (77%) reported getting inspiration from internet sites including: Pinterest®, Tumbler®, Instagram®, Facebook®, Style.com®, Stylesight®, Polyvore®, Wane®, trend forecasting websites, fashion websites, fashion blogs, social media blogs media about celebrities and their own websites.

Our students are a computer savvy and visually oriented generation. Smart phones and other mobile media can provide them unlimited opportunities to access a variety of visual sources of design very easily. Social media linkages help raise their awareness of and exposure to upcoming and current fashion trends. Pinterest®, Tumbler®, and Instagram® are popular tools providing opportunity to copy, keep and manage other people's visual images, and styles easily without properly addressing source of original design, as a whole or as components. This situation can result in students creating their own designs without acknowledging sources used to generate their design. Copying or using main ideas without sourcing resources is considered plagiarism within papers students created for classes. It seems logical to consider excluding visual information as a source as ethically inconsistent in acknowledging original sources.

Other Internet resources for design ideas reported included retail sites such as Nordstrom.com and Etsy (10%). Dedicated designer's collections and runway shows were also listed (9%). Given how readily available they are to our current student population, it seems that visual sources delivered by the Internet may have considerable immediacy impact.

Collectively, Internet resources show a strong tendency for respondents to notice existing fashion in the market as sources to gain inspirations they can interpret into their own designs or prioritize in merchandising assortments. Hemphill and Suk (2009) argued that interpretations are neither copies nor substitutions for original designs but are also essential to a process of creating something new. Student participants also considered the practice of design interpretation as a way to create original fashion designs. Since apparel industry professionals shared this viewpoint, it seems this practice is widely accepted within the fashion industry as a way of creating apparel products (Lee & Lee, 2013).

Finally, it is also important to note that students reported inspiration from lifestyle related sources

through their experiences with: music, art, dance and photography (15%); lifestyles, street wear, friends and people around me (15%); culture, history, current events and personal experiences (15%); nature, the seasons, landscape (11%), books and movies (10%).

These results suggest that the Internet has begun to trump most other sources of inspiration for students of this generation. The implications of this finding are dependent upon the information available on the Internet and faculty requirements both for types of sources and for sources of inspiration.

What makes the distinction between “copy/knock-off” and “interpretation/adaptation” in using other people’s design in your own creation process? Please provide your justification.

Students seemed to have some pre-existing knowledge and understanding about the differences between “copy/knock-off” and “interpretation/adaptation”. When focusing on the contrast in approach, copy/knock-offs were viewed as identical and considered to be a line-by-line replica of another design (40%). In contrast, interpretations were considered to exhibit only a few elements inspired by other fashion designs and were thus original designs that reflected trend (42%). When focusing only on interpretation/adaptation, some respondents (12%) viewed incorporating limited elements inspired from other designs along with a majority of your own ideas as original design. At the same time, some respondents (17%) were concerned about the unethical nature of copying designs and the unfairness of the originators not getting the full benefit and credits of their efforts. They considered it is unfair but they seemed to recognize the reality of the current ethical dilemma in the fashion industry.

Some subjects reported this question was not applicable to them (16%), while others did not respond or their answers were not classifiable (13%). This result indicates that about 30% of respondents did not have a clear understanding of the seriousness of possible ethical issues. Educators need to take an action in mentoring students to foster ethical understanding of intellectual property within fashion product development processes.

Do you think it is “ethically” acceptable to use inspiration from other designer’s work in your own creation process?

When specifically asked about use of inspiration, respondents tended to agree (94%) that it was ethically acceptable to use inspiration from other designer’s work in their own creation process. Professionals in the industry often tweak and change existing designs to create something new and consider this interpretation process to be effective and necessary for continuing trend. Yet these professionals also felt a strong need for industry guidelines for ethical creative processes (Lee & Lee, 2013). The students may face the same need when entering the industry while working on creative process. It is advisable to prepare the students to make ethically right judgment as to what is acceptable and what is not.

Do you look to preexisting designer's work for inspiration and/or to borrow any design elements?

Respondents reported that they have borrowed limited components such as color or silhouette from existing fashion designs but not a whole design (always 18%; occasionally 44%). Very few respondents reported they just did their own thing and ignored fashion trends (4%). Some respondents reported they do not design (26%) as they are students with a merchandising major. This outcome demonstrates how much our students do use other designers' work as inspiration for their design and merchandising processes. Faculty members often make being on trend as a requirement so this is not atypical. This expectation logically encourages students to lean more toward borrowing or many times directly copying others' design while they carrying out their projects and assignments.

Ethical and Legal Issues of Fashion Design and Product Development

Survey questions dealing specifically with ethical and legal issues of fashion design and product development were categorical (yes/no). Most respondents agreed that it is ethically acceptable to use inspiration from other designers' work in your own creation process (96% yes; 4% no). They also agreed that legal action should be taken against producing and selling counterfeit products (94% yes; 6% no). When asked have you bought counterfeit garments, a majority of respondents avoided this unethical behavior (31% yes; 69% no). When asked if they had heard of fashion copyright law, a majority replied they had (68% yes; 32% no). It is important to pay attention, however, that one third of the total participants still had not heard about fashion copyright law. This draws our attention to a need for increasing awareness regarding the issue and curriculum development on the subject. When asked do we need fashion copyrights in fashion design, most respondents were in favor of fashion copyright law being enacted (78% yes; 22% no). However, it seemed that respondents did not clearly understand the details of the fashion copyright law. Thus, it is also important to provide an educational framework for the students to learn the pros and cons of legally protecting fashion design. Developing curriculum related to the subject in higher education is imperative. Therefore, apparel design and merchandising students are clearly understand the fashion copyright and related issues better and can ultimately perform and make decisions ethically in their future career.

Conclusions

The purpose of this study was to investigate students' viewpoints on creativity and ethics related issues within their use of fashion design information and creative process. As they are the future leaders of the industry, it is important to learn about their viewpoints on copyright and the creative process. To collect constructive information on their views, we created a survey questionnaire with open - ended questions. The questions focused on how they obtain their design inspiration when completing design assignments for their classes, how they differentiate between copying and being inspired by a work, their knowledge about fashion copyright law, their definition of creativity in fashion product development, and their

demographics. A total of 100 fashion major students from three different universities located in north-western state in the US, were selected by convenience sampling. The data were analyzed qualitatively.

More than half of the participants (55.56%) look for design inspiration from secondary sources, such as existing designers' work which they observe over the Internet, magazines, fashion shows, and store shopping, in addition to primary sources, such as nature, culture, media, photographs, and other artwork. They refer to other designers' work mainly for inspiration. Many informants specified elements of design, such as silhouettes, accents, structures, and colors, as their source of inspiration. Specific details, such as cutting, seaming, draping, and tailoring, were also mentioned as elements referred to or sometimes even borrowed in their creative process. However, none of the participants said that they directly copy the same design details; rather, they are influenced by these elements and add their own touches to create something unique. Interestingly, all informants made a clear distinction between copying (i.e., making "line to line copies") and interpreting (i.e., borrowing elements to create one's own individual design), which confirms Hemphill and Suk's (2009) argument that this distinction is a common sense.

Enhancing creativity while fostering acceptable decision-making, responses demonstrated that creativity and ethics were both frequently addressed by these apparel design and merchandising student respondents. With widespread availability of Internet visual documentation of original designs, copying designs has become very easy and fast. However, a majority of respondents showed their awareness that counterfeiting was legally wrong; copying designs was ethically wrong; and incorporating limited elements from inspirations was ethically acceptable.

Although fashion copyright protection law has yet to become enacted, a majority of respondents support passage of fashion copyright protection law. Students also considered use of aspects of original designs for trend inspiration to create new designs was both ethical and necessary to keep trends moving forward. These results give support to the value of addressing the creative problem-solving processes of creativity and ethical decision-making jointly within apparel design and merchandising curriculum.

The authors acknowledge that results of this study come from a convenience sample of 100 respondents within one northwestern state of the United States. Some of the students responded they do not design, which further limited the scope of the results. Also this study has limitation in that it acquired students' perception of an issue related to ethical decision-making from a self-report questionnaire. It is likely that social responsibility bias was inevitable from students' responses. However, results of this study are directional in pointing out that fostering creativity and ethical design are ongoing issues faced by contemporary apparel design and merchandising students and it will significantly impact the future of the fashion industry ultimately. The results from this study may be utilized to develop an educational program that can foster creativity and ethical design of college students as well as industry participants. In order to further investigate the findings from this study, a carefully designed quantitative research may be conducted with various samples from different cultural background.

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