

02.

IP in Fashion:

Designs, Trademarks,

Copyright



## **How to Use The Handbook:**

This handbook is short and practical. Each section gives you essential knowledge, examples relevant to African contexts, and key takeaways. You don't need a legal background, just curiosity and a desire to protect and grow within fashion.

This handbook is part of a 10-part series by the Fashion Law Academy Africa (FLAA) to make fashion law accessible to African creatives and stakeholders.

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# IP in Fashion

## Introduction

The global fashion industry is a business built on ideas, creativity, and brand identity.

These intangible assets can be protected using Intellectual Property (IP) laws. From a logo on a label to a signature pattern, IP allows designers and fashion businesses to protect the value of their creative output.

In Africa, where vibrant creativity meets a growing fashion economy, many creatives still remain unaware of how IP law works or how to protect their work effectively. This handbook simplifies what IP is, why it matters in fashion, and how African fashion professionals can protect their ideas locally and globally.

Whether you're a designer, student, entrepreneur, or stakeholder in the African fashion ecosystem, this handbook offers a practical overview of the IP tools that can help secure your brand and designs.

## Types of IP in Fashion

### Copyright

Protects: Original works of authorship (e.g., textile prints, fashion illustrations, embroidery patterns).

Example: A Lagos-based designer creates a series of original adire patterns. These patterns can be protected under copyright as original artistic works.

Key Tip: Copyright is usually automatic upon creation, but registration strengthens enforcement.

## Trademarks

Protects: Names, logos, slogans, or any brand identifiers.

Example: A Ghanaian streetwear brand registers its logo and slogan to prevent others from using confusingly similar marks.

Key Tip: Trademark rights can last indefinitely if renewed. They help build and defend brand identity.

## Design Rights / Industrial Designs

Protects: The ornamental or aesthetic aspects of a product (e.g., the unique shape or style of a dress or handbag).

Example: A Rwandan accessories label creates a signature bag shape. Registering that design prevents others from copying its unique form.

Key Tip: Registration must happen before public disclosure in some jurisdictions as early protection is crucial.

## Patents

Protects: Inventions and new technologies (e.g., smart fabrics, garment innovation).

Example: A South African startup invents a heat-sensitive textile. A patent can protect the innovation, not the garment design itself.

Key Tip: Patents require novelty and industrial application. Often less relevant in fashion but vital for tech-fashion hybrids.

## Trade Dress (where applicable)

Protects: The visual appearance or packaging that signifies a brand (e.g., boutique layouts, specific wrapping styles).

Example: A luxury African fashion house replicates the distinctive interior design of its stores across cities. This may be protected under trade dress in some countries.

## Where to Register IP in Africa

## ARIPO (African Regional Intellectual Property Organization)

- Covers 22 mostly Anglophone African countries
- Offers centralised trademark, patent, and industrial design registration

## OAPI (Organisation Africaine de la Propriété Intellectuelle)

- Covers 17 Francophone African countries
- One registration grants protection across all member states

## National IP Offices

- E.g., NOTAP (Nigeria), CIPC (South Africa), KIPI (Kenya)
- Often used by creatives registering only within their own countries

Challenge: Many creatives skip formal registration due to lack of awareness or costs but this leaves them legally vulnerable.

## Protecting Fashion-Specific IP

### Print Patterns

Protect via copyright or design rights.

Example: A Cameroonian designer uses traditional symbols in their fabric. Proper documentation and registration can protect these against unauthorised copying.

### Logos and Brand Names

Trademark these early because they define your brand.

### Garment Silhouettes

Can be protected under industrial designs.

### Techniques & Innovations

Innovative embroidery or dyeing techniques can be protected as patents (if novel) or as trade secrets.

Proof of Originality: Keep drafts, sketches, timestamps, and production logs.

These can serve as evidence in disputes.

## IP Enforcement: Global vs African Realities

### Global Enforcement Tools

- Cease-and-desist letters
- Online platform takedowns (e.g., Instagram, Etsy)
- Lawsuits in IP courts
- Customs-based interventions

### African Realities

- Weak enforcement mechanisms
- Low legal literacy among fashion stakeholders
- Long legal timelines and limited court expertise

Example: A Nigerian designer discovers a foreign brand selling bags with her logo. Without prior registration or proof of ownership, enforcement becomes extremely difficult.

### Quick Tips & Red Flags

- Mistake #1: Assuming Instagram posts protect your work.
- Mistake #2: Using unregistered logos or slogans.

- Mistake #3: Sharing unreleased collections publicly before protecting them.
- Mistake #4: Not reading contracts with collaborators.
- Mistake #5: Believing enforcement is too expensive to be worthwhile.

### Checklist:

- Register your logo and brand name
- Protect key prints or silhouettes early
- Keep dated records and design drafts
- Get basic IP legal advice when launching a brand

# Glossary

Term	Meaning
<b>Copyright</b>	Legal right protecting original creative works (e.g., textile prints).
<b>Trademark</b>	Word, phrase, or symbol that identifies and distinguishes a brand.
<b>Industrial Design</b>	Protection for the aesthetic appearance of a product.
<b>Patent</b>	Exclusive rights granted for a new invention.
<b>Trade Dress</b>	Visual features that identify a product (e.g., store layout).
<b>Cease-and-Desist</b>	Legal notice demanding that someone stop infringing your IP.
<b>Infringement</b>	Use of protected IP without permission.
<b>WIPO</b>	World Intellectual Property Organization. Offers global IP resources.
<b>ARIPO/OAPI</b>	Regional African IP registration bodies.
<b>Licensing</b>	Granting permission to use IP for agreed terms.



