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Protecting intellectual property in the jewellery industry: defending both the art and the creative spirit

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The jewellery industry is known globally for its creativity and craftsmanship, with designers and businesses constantly innovating to create unique and valuable pieces. Intellectual property rights play a pivotal role

in protecting these creations, ensuring that the creators can reap the benefits of their hard work and innovation.

Intellectual property as a concept refers to products of the intellect – essentially covering the ideas that come out of the human brain. Intellectual property laws protect those ideas, inventions and creativity for their creators.

This report aims to provide insights into the



The report's authors: Tiffany Stevens (left), President of the CIBJO Ethics Commission, and Sara Yood, Deputy General Council, Jewelers Vigilance Committee.

challenges such as counterfeiting, enforcement complexities, and the need for better education persist.

The jewellery industry is also subject to the same challenges every industry is facing with digital platforms, artificial intelligence and social media, providing growing avenues for infringement, which necessitate a proactive approach.

As the jewellery industry continues to evolve, addressing these challenges and fostering a culture of intellectual property law awareness and protection will be crucial for sustaining innovation and creativity.

The various forms of intellectual property

In the context of the jewellery industry, various forms of intellectual property play a crucial role in protecting the creativity, innovation, and distinctiveness of jewellery designs and brand identities.

Not all types of intellectual property protection are suitable for every aspect of the jewellery industry. The choice of protection depends on factors such as the nature of the innovation, the degree of distinctiveness, the level of investment

current status of intellectual property rights in the jewellery industry, examining the challenges trends, and practices related to IP protection. CIBJO's unique role in bringing the global jewellery industry together can help its members to improve their understanding of intellectual property and safeguard against the infringement of their rights.

The report highlights importance of IP rights within the jewellery industry. While many professionals are aware of their significance,

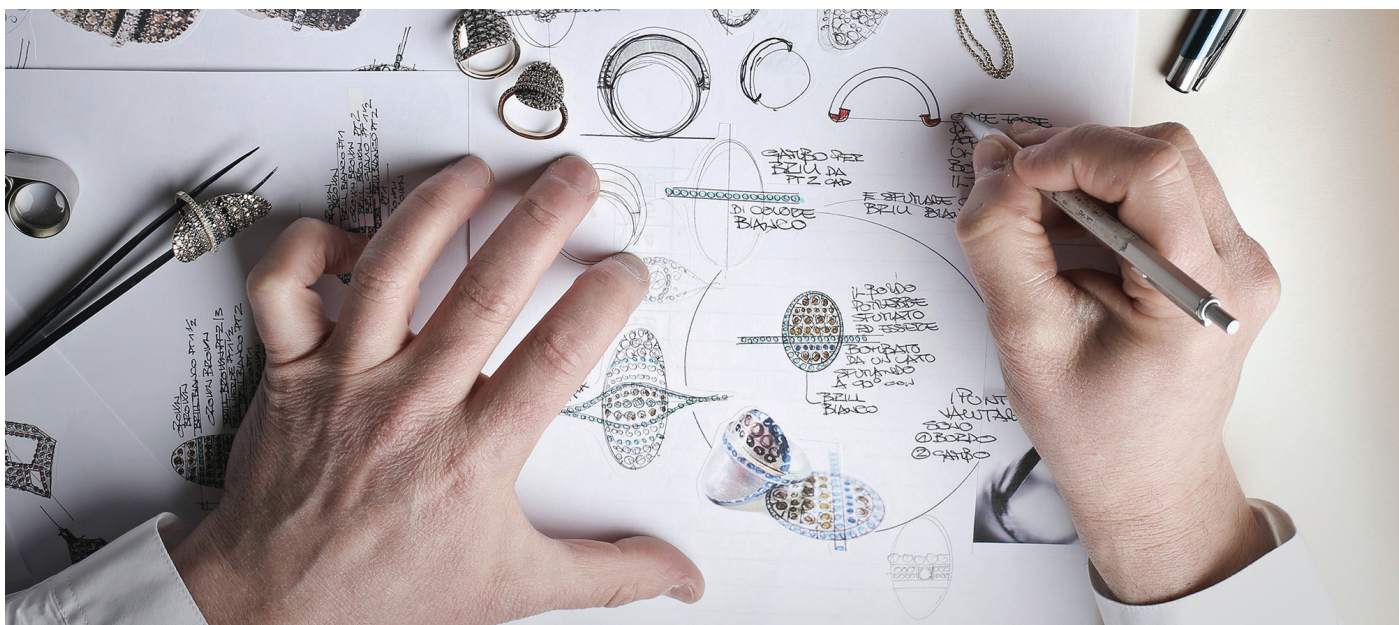


Photo: Andrea Piacquadio on Pexels.

in protecting the IP, and the business strategy.

Many jewellery companies may use a combination of these forms of IP protection to safeguard their designs, brands, and innovations. Consulting with legal professionals well-versed in intellectual property law can help businesses make informed decisions about how best to protect their creative assets.

The following are the main types of intellectual property relevant to the jewellery sector:

Copyright: Copyright protects original creative works, including artistic and design elements in jewellery. This can encompass drawings, sketches, patterns, and even the design of the jewellery itself.

While copyright doesn't protect functional aspects, it does safeguard the visual aspects and expressions of the jewellery. For instance, a unique arrangement and setting of gemstones or a distinctive pattern engraved onto a pendant can be protected by copyright. An example of this is Van Cleef & Arpels' "Vintage Alhambra" design, where the unique combination of the design elements involved allows for copyright protection.

The creator does not necessarily hold the copyright. In copyright law, the concept of a "work made for hire" refers to creative works or intellectual property produced by an employee or an individual under a contractual arrangement, which designates the hiring party as the legal owner of the copyright. In such cases, the employer or hiring entity holds the exclusive rights to the work's distribution, reproduction, adaptation, and public display.

The "work made for hire" provision is particularly relevant in employment relationships or specific contractual agreements where the commissioned work is created within the scope of the person's employment or engagement. The notion of works made for hire ensures clarity in determining copyright ownership and allows businesses and organizations to assert their control over intellectual property assets created for their benefit.

Trademark: Trademarks are symbols, names,

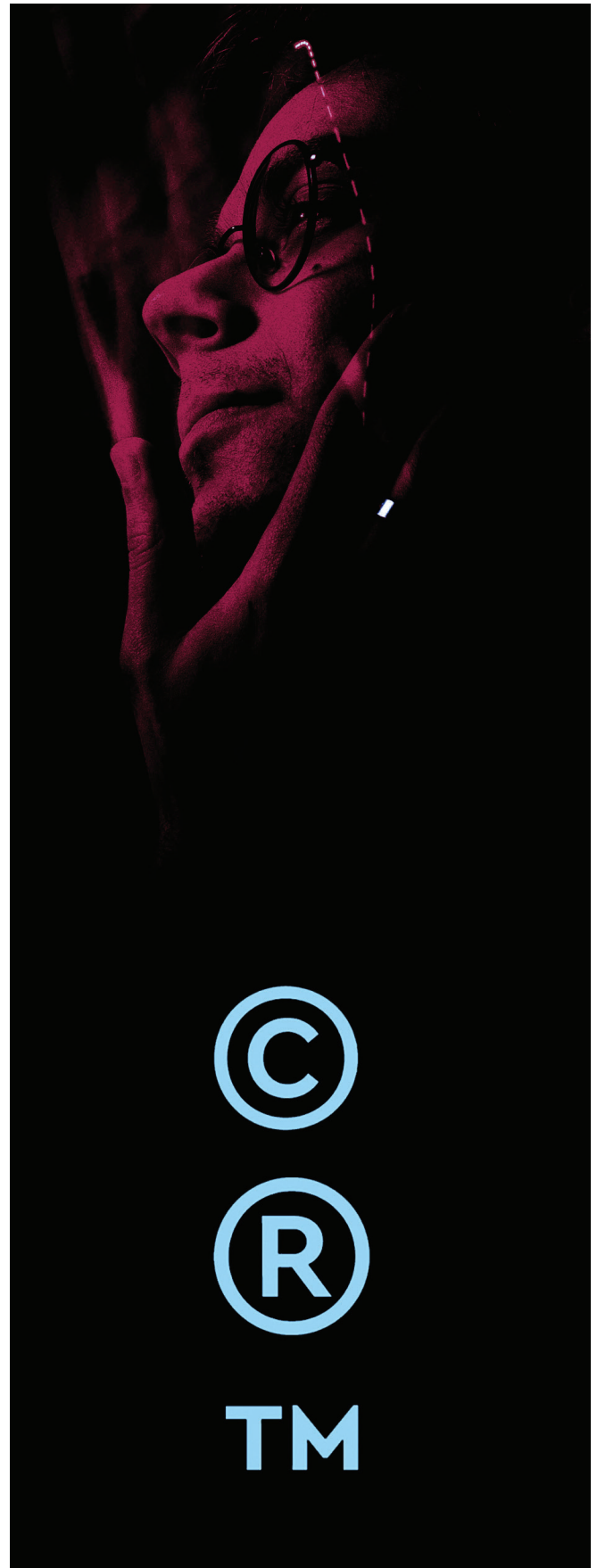


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words or other identifiers that distinguish the source of goods or services. In the jewellery industry, trademarks are often used to protect brand names, logos, and other distinctive signs associated with jewellery companies.

This can extend to the design elements that are distinctive and recognizable as belonging to a specific brand. For example, Tiffany & Co.'s blue box is a registered trademark for the colour that has become iconic in the industry.

Design Patents: Design patents are granted for new, original, and ornamental designs for articles of manufacture. In the jewellery context, this could cover the unique visual features of a piece, such as the shape of a pendant or the arrangement of gemstones in a specific pattern.

Design patents protect the appearance rather than the functionality of an item. Royal Asscher, for example, holds design patents on four of their signature diamond cuts.

Utility Patents: While less common in the jewellery industry, utility patents can apply if a jewellery-related invention has a novel and non-obvious functional aspect. For example, a new type of clasp mechanism that improves the security and ease of wearing a necklace could be eligible for a utility patent.

Pandora, for example, held a utility patent for the invention of a necklace or bracelet with provisions to prevent the bunching of baubles,

bangles and beads which were strung on the necklace or bracelet. The patent was granted in 2006 and expired in 2023.

Trade Dress: Trade dress refers to the distinctive overall appearance or look of a product that identifies it with a particular manufacturer or source. In the jewellery industry, this could encompass the unique combination of design elements, packaging, colour schemes, and other non-functional features that distinguish a brand's products from those of competitors. The Tiffany & Co. example cited above is an example of trade dress.

Trade Secrets: Trade secrets involve valuable information that gives a business a competitive edge and is not generally known or readily ascertainable by others. In the jewellery industry, this might include closely guarded manufacturing techniques, proprietary formulas for creating special finishes, or unique gemstone treatments.

IP rights across national boundaries

It is also important to note that the specifics of intellectual property rights can vary significantly from country to country due to differences in legal systems, cultural norms, and international agreements.

While the fundamental principles of intellectual property protection are similar worldwide, the implementation, scope, and specifics of these



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protections can vary greatly due to national legal systems, cultural norms, and international agreements. Businesses and creators seeking IP protection in different countries should prioritize working with legal professionals familiar with the specific jurisdiction's laws.

Here's a brief survey of how intellectual property rights differ across countries:

Patents: Patents protect inventions and grant their inventors exclusive rights to make, use, and sell their inventions for a certain period, which is usually 20 years. While the basic principles of patent protection are similar globally, the criteria for patentability and the patent examination process can differ. Some countries may have stricter or more lenient patentability requirements.

trademark protection is generally consistent, but registration procedures, requirements, and enforcement mechanisms can differ. Some countries may require actual use of a trademark before registration, while others only require an intent to use.

Trade Secrets: Trade secrets encompass confidential business information that provides a competitive advantage. The protection of trade secrets varies based on national laws and regulations. Some countries offer robust legal frameworks for trade secret protection, while others may have less stringent measures.

Industrial Designs: Industrial designs protect the visual design of objects, such as the shape and ornamentation of products. Similar to patents, the criteria for design protection and the registration process can differ between



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Copyright: Copyright protects original literary, artistic, and creative works, such as books, music, software, drawings, sculptural works and films.

Most countries are signatories to international agreements like the Berne Convention, which establishes minimum standards for copyright protection. However, the duration of copyright protection, the works covered, and the specifics of fair use or fair dealing exceptions can vary.

Trademarks: Trademarks protect symbols, names, and slogans that distinguish goods and services in the marketplace. The concept of

countries. Some nations offer limited protection for functional designs, while others focus on the ornamental aspects.

Enforcement and Remedies: The enforcement of intellectual property rights can differ widely. Some countries have well-established legal systems and enforcement mechanisms, while others might face challenges related to piracy, counterfeiting and legal enforcement.

International Treaties: International agreements, such as the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS),

provide a framework for IP protection and harmonisation. Countries' compliance with these treaties can impact their IP laws and regulations.

Raising IP awareness in the jewellery industry

The Ethics Commission recommends that CIBJO further the understanding and application of intellectual property rights in the jewellery industry by strengthening industry associations' efforts to raise awareness and provide guidance on IP-related matters.

CIBJO should advocate for streamlined and cost-effective legal procedures, such as the new Copyright Claims Board for small infringement

cases in the United States, for pursuing IP infringement cases.

The organization should continue to foster collaborations and partnerships with legal experts to provide accessible avenues for addressing IP infringement cases.

And finally, the Ethics Commission encourages the integration of IP considerations in the design and manufacturing process to proactively prevent infringement. If jewellery businesses and designers take care not to create infringing work, innovation and creativity will continue to thrive.

Sally V. Winters, Counsel, Jewelers Vigilance Committee, contributed to this report.



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