

## **Innovation and Intellectual Property: Creating Value and Cultural Currency in Fashion Products**

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**Abstract:** This paper explores the creation of value and cultural currency in innovative and artisanal fashion products through the lens of intellectual property; looking at the importance of embedding intellectual property thinking into an enterprise's business strategy. Case studies of fashion collaborations and co-creative business projects explore how tangible and intangible elements are managed. To date, the vital role intellectual property plays in the value creation of such products has not been explored or mapped. This is due to Euro-centric business models of fashion brands positioning themselves as tastemakers and key decision-makers in the final product design in most market segments. Euro-centric fashion design and low-cost manufacturing in developing countries has sometimes inadvertently resulted in cultural appropriation, and the value generated by the maker or creator has been subsumed. This paper is useful for small-scale creative enterprises and academics to identify and leverage intellectual property as a business strategy to underpin value creation in fashion and design collaborations.

The growth of design collaborations, localisation in fashion consumption and the demand for transparency in supply chains have strengthened the position of makers and creators in the fashion value chain. These shifts raise considerations concerning ownership of intellectual property and acknowledgement of intangible local cultural expressions. Collaborations between agile design-driven enterprises in diverse markets are complex and intellectual property is leveraged as the project evolves. Localisation in fashion promotes craft techniques, cultural symbols and manipulation of local materials and poses questions on how to ensure that everyone involved in the process is fairly rewarded and recognised. Supply chain transparency requires recognition of each supplier's contribution to the value creation of the finished fashion artefact. This raises questions concerning the negotiation process and tenets of value creation.

The research is empirical and draws on case studies of fashion collaborations where value creation and intellectual property were identified and negotiated with all stakeholders. Qualitative data was collected from interviews with the micro-enterprises, rather than the overseas artisan producers due to limited access. The findings identified how intellectual property thinking can be used to underpin business strategy and create value for micro enterprises in complex, collaborative projects.

**Keywords:** enterprise strategy, intellectual property, innovation, value creation, collaboration, cultural currency

### **Introduction**

This work in progress paper examines intellectual property thinking in the context of fashion collaborations between micro businesses in the UK and artisan producers or small-scale manufacturers, often located overseas. Global collaborations between fashion enterprises and artisans are frequently innovative, experimental and multi-disciplinary; integrating media, culture and artefacts. Such collaborations create value and cultural currency in the form of tangible products and intangible assets. These are generated jointly by both parties and provide opportunities for the fashion enterprise and the artisan to develop and grow through the validation and leverage of inherent intellectual property. Whereas the validation of intellectual property and value creation in tangible products is relatively straightforward, intangible assets such as artisanal skills and networks are less easy to validate and quantify. Despite this complexity, this paper argues that all partners involved in creative and artistic collaborations should adopt a new approach of embedding intellectual property thinking in their business strategy at an early stage. This perspective is relevant to the following research areas: Intellectual Property (IP) and Innovation.

As IP arguably lies at the heart of the creative industries, playing a vital role in encouraging creativity and innovation, it's surprising how overlooked it has been within micro or small and medium business strategy. It's also disappointing given that there are many human rights relevant to the Creative Industries relating to

freedom of expression. In an emerging field where corporate social responsibility is starting to be considered in relation to IP, such as making informed decisions about ownership and use of created products where tacit knowledge is central to collaboration, it's essential that IP is seen as a tool for effective business practice, not a side effect. Innovation in fashion enterprises is defined as the systematic application of creativity to produce new knowledge, new processes, new products and new business models, and so managing IP strategically offers a fresh perspective on its importance in the creation of value.

### **Enterprise-Artisan Collaborations: the Co-creation of Value**

The experimental, innovative nature of collaborations, often purpose-driven, between UK fashion enterprises and global artisans provides opportunity for both peer-to-peer co-creation of value and the validation of each stakeholder's IP. These collaborators tend to originate from different countries and markets with diverse knowledge, skills and networks. Co-creation of value in this instance is different from co-creation in other contexts. In this context, the validation of each stakeholder's IP is a means of establishing a 'level playing field' of trust and confidence in the collaboration. A fair and equitable collaboration provides for the co-creation of value through rich, multi-dimensional outcomes including exhibitions, films, apparel, photographs or speaker events, encompassing functional and cultural value. Co-creation of value in other collaborations tend to consider the IP of the key or leading stakeholder. Business-led collaborations, which include the user or consumer at different stages of product development (Sanders and Stappers, 2008), do not validate the consumer IP. Fab Labs, community physical and digital spaces, provide opportunity for peer-to-peer learning and open source innovation (Fleischmann, Hielscher & Merritt, 2016), however do not systematically consider or validate stakeholder IP.

Traditional fashion collaborations in established Western-led fashion markets, initiated by high-street fashion retailer, H&M in 2004, consider co-branding and collaborative 'fit' as critical to the success of the venture (Oeppen and Jamal, 2014, Tungate, 2008). Value creation is jointly negotiated between the key dominant stakeholders: designer and retail brand for mutual benefit (Oeppen and Jamal, 2014) and it is highly likely that their IP is validated, however the manufacturer IP is usually overlooked.

In all types of fashion collaborations, the co-creation of value involves blending the tangible and intangible assets of indigenous (UK and elsewhere) reputation, culture, materials or skills. Managing these assets strategically for all stakeholders requires collective oversight in fashion enterprise-artisan collaborations to ensure that cultural appropriation is minimised or eliminated and the IP of minority cultures is consistently validated. Social media (Instagram account @dietprada) is quick to identify the culprits of cultural appropriation and the Millennial generation is clamouring for authenticity and transparency in supply chains (Mckinsey, 2019).

### **Cultural Currency in Enterprise-Artisan Collaborations**

The value of cultural production and its global benefit for trade is outlined in a United Nations Conference on Trade and Development report recognising that 'The creative economy has both commercial and cultural worth'. This dual value has led governments worldwide to focus on expanding and developing their creative economies as part of economic diversification strategies and efforts to stimulate prosperity and well-being. The cultural value or 'cultural currency' of the creative economy goes beyond the financial reward of return on investment. In the context of fashion enterprise and co-creation between micro businesses with indigenous communities, it also includes the recognition of respecting basic human rights, traditional cultural expressions and exploring sustainable practice.

The intersection of IP (in particular copyright) and traditional cultural expressions is one of the most challenging areas to navigate, often leading to cultural appropriation and the fashion industry has received increasing accusations of misguided practice in recent years. A well-known case is American retailer Urban Outfitters who appropriated Navajo Nation motifs on underwear without consent, attribution or compensation. Cultural appropriation can be defined as the taking, by a member of a dominant culture, of a cultural element from a minority culture, without consent, attribution or compensation (Vezina, 2019). Conversely, there are those who regard cultural appropriation as 'cultural appreciation' on the basis that we stand on the shoulders of giants, and everything is a derivative and inspired by what precedes it.

As fashion brands seek opportunities in developing countries, it calls into question the legal protection that indigenous communities can rely on to best leverage commercial and innovative collaborations, whilst ensuring that the integrity of their traditional values are preserved. Article 31 of the *United Nations*

*Declaration on the Rights of Indigenous Peoples, 2017*, recognizes that Indigenous Peoples “have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions. . .”. However this conceptual notion is underpinned by complex technical and legal uncertainties, primarily how is ‘traditional cultural expressions’ defined?, for what purposes should they be protected and for whose benefit?. IP may be seen as a form of protection and way to retain value for such communities. However, many community practices are exactly that- something that has been inherited generationally and not belonging to the individual but rather shared beliefs, traditions and other intangible assets. As IP is traditionally seen to protect and reward an individual’s labour for their creation, it falls short in this area.

There is also recent debate about whether IP is the appropriate technical legal mechanism to protect traditional cultural expression or if the freedom of choice about how to adapt old cultural practices to new circumstances be preserved instead (WIPO, 2017). This gap in providing sufficient measures for communities to have fair recognition, control and remuneration for their crafts, skills and techniques can make them vulnerable when faced with Euro-centric fashion brands and compromise a level playing field for all involved in co-creation.

To this end, cultural appropriation has unfortunately been common practice because Euro-centric fashion brands have positioned themselves as global fashion tastemakers and key decision-makers in the final product design in most market segments (Melin, 2009; Paton, 2015). As low-cost manufacturing in developing countries has usually had a minor role in the finished product design, the value and IP generated by the maker or local creator has been subsumed. However, the demand for radical transparency in supply chains is gathering momentum among global fashion consumers, which has prompted large and SME fashion businesses to identify and validate the provenance of their products as a strategic objective (McKinsey, 2019). Furthermore, as part of an enterprise’s corporate social responsibility, embedding IP thinking within the context of cultural, social and ethical concerns as well as financial is pivotal to the co-creation of long-term value.

### **Methodology**

To study the collaborative practices between UK based micro and small and medium fashion enterprises and global communities, we interviewed two fashion enterprises as a first stage in building a multiple case study methodology. Although we did not include the artisans’ perspectives, which could be considered a limitation of this study, we considered this to be appropriate for the following two reasons. Firstly, direct access to the artisan producers was not possible for this primary research, because they are based overseas in dispersed geographic regions and secondly, the UK micro enterprises were selected because they aspired to collaborate with artisans with the intention of validating the artisans’ IP and respecting cultural value. As this is work-in-progress, we plan to continue this study to capture the ongoing practice and decision-making through four or five case studies of collaborations between different indigenous communities and UK based fashion enterprises, where the perspectives of more stakeholders will be obtained.

An iterative research process, where data is captured over time from several different data points, including interviews, artefacts and observations was felt to be appropriate, because it encapsulates the complexity of collaboration. The interviews were undertaken with two founders of fashion collaborations, a postgraduate student and an alumni of London College of Fashion. We developed an interview guide (Appendix 1) composed of 13 questions in all, to identify: the purpose of the project, the outcomes, the inherent IP and the impact of IP on business planning and strategic objectives.

The interviews lasted approximately one hour, and the interviews were transcribed. The findings were grouped into categories, based on the themes that emerged.

### **Findings and Conclusion**

The key findings that emerged at this early stage are grouped into the following categories of impact: reputational, brand value, know-how, skills and production techniques, relational and networks.

These categories are explained below, with examples from the data as evidence of the impact in practice.

#### **Reputational Growth**

It was important for the entrepreneurs to strengthen their own reputation with other stakeholders who were directly or indirectly involved with the collaboration. Extension of the entrepreneur's and the other stakeholder's reputation within a defined network helps them to identify their values and vision for their Enterprise and conveys these to their network for support for future projects.

*... The long-term benefits are that the JWDC will be become more internationally recognised and received the exhibit of their work on an internationally acclaimed platform; the British council.*

*...We didn't get financial support from the Mexican government, because we should have presented this a year ago. But for future projects, if we present the results that we have now, we might get financial support for a second edition.*

### **Relations and Networks**

The collaboration provided an opportunity and a vehicle to develop relationships with industry players and to enter into a network that may have been closed to the entrepreneur and the other stakeholders before the collaboration. Developing these relationships is a strategic endeavour as they provide support for future business and also add credibility to the entrepreneur's vision and values through an endorsement of the project.

*...The purpose of collaboration is to create a powerful relationship which sparks conversation and embeds design in a story'*

*... The most important of them all is the networking, because I mentioned all the stakeholders to put the project together. And all the results that have come out of this, the embassy, trusting in the project.*

### **Emergence of Brand Values**

The nascent brand values of the fashion enterprise emerged through the collaboration, and were amplified and more clearly identified through the visual and discursive outcomes of the project, including the film or the exhibition.

*...To create synergy between traditional crafts and contemporary design culture.... I also was approached by the British Council Nepal to produce a Crafting Futures documentary to tell the story of the collaboration championing craft'*

*...We wanted to work with fair and ethical brands that provide social innovation to these artisans... the main event of the exhibition is a panel discussion, an artisan is talking about her products being plagiarised by Zara. The panel will be chaired by the NGO, Impacto, also an expert from New Zealand, also Fashion Revolution.*

### **Know-how, Skills and Production Techniques**

The artisans and the fashion designers Know-how, skills and production techniques represent key tangible assets that were accessed and used in collaboration. These elements are central to the collaborative activities and relationship and complement the over-arching purpose underpinning the collaboration. They incorporate the cultural currency of the collaboration and at the same time the exchange of know-how and skills increases the stakeholder's knowledge and experience, which extends the impact beyond the duration of the collaboration.

*...If the collaboration is successful then this will provide the opportunity for Ellen to share further skills with the women in the future in order for them to be able to advance their own products and it gives them a pricing structure in which to use for external clients whilst valuing their work as artists and not as a production unit.*

*...firstly, the artisans work is not celebrated as it should be, there is a lot of richness in terms of culture, technique, savoir faire. This is sometimes underrated, so I wanted to give them a platform.*

The elements identified above present a synthesis of the impact of the collaboration on the stakeholders involved. The management of the IP in each of these elements, both tangible and intangible, can be included in the strategic planning of both the fashion enterprise and the artisan.

To conclude, this paper posits that the process and impact of collaboration between the fashion enterprise and artisan represents a significant means of brokering and amplifying key tangible and intangible assets. Leveraging the inherent IP in these assets should form a key component of the business strategy of both artisan and enterprise. This approach is vital for the development and growth of creative businesses in terms of credibility, critical acclaim, reputation, brand development and engagement with significant players in the fashion system.

The next stage in this research focuses on attempting to audit, quantify or evaluate the inherent IP and indicate how this may be strategized in order to identify clear plans for growth and longer-term development.

## **Appendix 1 - Interview questions**

1. What is the product/project?
2. What is the primary purpose of the product/project/collaboration/what motivated you?
3. Who are the stakeholders and why?
4. Who owns the intellectual property in any work created?
5. What steps have you taken (if any to protect your intellectual property?)
6. What challenges did you face with the project?
7. What opportunities did you create/achieve?
8. Any other considerations agreed? e.g. where something can be sold, how something is attributed, any local laws to bear in mind
9. What are the long-term benefits of the project?
10. Is there anything you wish you had known before you started the project?
11. Has Intellectual Property made a difference to your business planning?
12. What difference has it made?
13. Is this significant or not? How?

## **Appendix 2 Case Study: Ellen Rock**

### **1. What is the product/project?**

The product is print and textiles based pieces and collaborations in which the value lies in the IP of the graphic elements in their distinctive composition.

The graphics are sometimes produced in collaboration with artisanal groups who Ellen Rock works with to produce the graphics using traditional textiles.

### **2. What is the primary purpose of the product/project/collaboration/what motivated you?**

The project used as an example is my recent collaboration with the Janakpur Women's Development centre in which I have designed and produced a limited edition hand-painted collection.

To create synergy between traditional crafts and contemporary design culture.

I am motivated by the interest and dedication to preserve techniques whilst we move forward into a digital future.

The purpose of collaboration is to create a powerful relationship which sparks conversation and embeds design in a story.

### **3. Who are the stakeholders and why?**

Stakeholders are individuals who are seeking a purpose and a narrative to invest in. Through owning an Ellen Rock original piece, they are guaranteed a story in which can be treasured.

They also are seeking solutions in a sustainable future and align their values with building a better world in design choices in order to unite borders.

#### **4. Who owns the intellectual property in any work created?**

The value lies in the visual aesthetic - so the majority of this is owned by Ellen Rock.

This IP can be licensed for exclusive use to different commercial collaborative partners - as well as being applied to products without exclusivity.

Occasionally where a collaboration is at the core of the design - the intellectual property will be co-owned by the artisan group and Ellen Rock.

#### **5. What steps have you taken (if any to protect your intellectual property?)**

I have trademarked my name; 'Ellen Rock' in 5 classes which is relevant in the UK.

I have also registered the design rights of my key designs, and used these to enforce my rights when there have been imitations made.

Further to this I have invested in collaborative agreements which protect my rights and the usage of intellectual property. These include Non-Disclosure agreements and terms of engagement.

#### **6. What challenges did you face with the project?**

The challenges faced were within the perimeter of creating joint outcomes in which included both my own and the Mithila artists intellectual property. I had to be mindful to make sure they understood where the designs would be used as well as what the intent was.

With transparency, I think any challenge can be overcome - so long as the collaborators understand how the project is mutually beneficial.

#### **7. What opportunities did you create/achieve?**

I created the opportunity with the British Council Nepal for the collaboration to be exhibited in a solo exhibition at the British Council Kathmandu, this showed how the exhibition had evolved.

I also was approached by the British Council Nepal to produce a Crafting Futures documentary to tell the story of the collaboration championing craft.

The collection will also be exhibited in the UK, further enforcing the crossed borders of collaboration.

#### **8. Any other considerations agreed? e.g. where something can be sold, how something is attributed, any local laws to bear in mind**

We have agreed a limited edition as a test sale period to see if there is demand; if so we will proceed to make a business arrangement in which involves a commission and export fee of the product.

I have also agreed with the centre that in order for skills to be shared - they may reproduce the products designed - however only applying their own Mithila designs through hand painting or print - any of Ellen Rock's signature graphics are not to be reproduced.

#### **9. What are the long-term benefits of the project?**

The long-term benefits are that the JWDC will become more internationally recognised and receive the exhibit of their work on an internationally acclaimed platform; the British Council.

Also, because we invested in documenting the process and story of Mithila art this will also be widely shared.

If the collaboration is successful then this will provide the opportunity for Ellen to share further skills with the women in the future in order for them to be able to advance their own products and it gives them a pricing structure in which to use for external clients whilst valuing their work as artists and not as a production unit.

### **10. Is there anything you wish you had known before you started the project?**

I wish that I had known the challenges of sourcing sustainable fabric in Nepal and how much this would significantly up the cost of the overall collaboration.

However, all in all I am pleased with how successfully I introduced IP understandings from the beginning so that there was no miscommunication and surprises.

If this project or collection gets even bigger then this will have to be re-assessed however for now it is the beginning of something special!

### **Appendix 3 Case study: A La Mexicana**

#### **1. What is the product/project?**

The name of the project is 'A la Mexicana' and deals with social innovation, working specifically with southern estates in Mexico. It poses the questions about the collaborations between artisans and brands

#### **2. What is the primary purpose of the product/project/collaboration/what motivated you?**

Different factors – firstly, the artisans work is not celebrated as it should be, there is a lot of richness in terms of culture, technique, savoir faire. This is sometimes underrated, so I wanted to give them a platform. Also employees and artisans are not always treated well and are sometimes exploited. We wanted to work with fair and ethical brands that provide social innovation to these artisans.

#### **3. Who are the stakeholders and why?**

We have a lot of stakeholders- first stakeholder is the University and that gave us credibility to contact everyone else. The blog that we are working with is Hilando Historias, which is the second stakeholder, run by a fashion designer, Estela Ivonne. She is already promoting these ethical practices and travels around Mexico and has participated with the designers and artisans in Southern Mexico. I already knew her before, she is essentially the link between the other partners in the project. Another stakeholder is an NGO 'Impacto', who also promote ethical treatment of textile artisans, want to improve the quality of life of the artisans in Oaxaca. They already work with the artisans. We had already checked with the NGO Impacto which brands were ethical: Andrea Valasco, Takamura, Fabrica Social, Estela Ivonne (designer) and the state of Chiapas and Oaxaca, the coaches (Stacia, Chitra, Francesco), also J/M Gallery in Portobello road. Secretary of Cultural Affairs in the Embassy, Stephanie Black. She will help with social media and with the Press, lend some screens, all the people from the MA course as well who were in the group: Nick, Dongdong, Yolanda, Harry, Patricia and Violeta.

#### **4. Who owns the intellectual property in any work created?**

In the exhibition, we have not looked into the Intellectual property, because we did not have enough time. This was the main limitation of the project – time was quite short.

We have looked into the IP of the content. The brands have their own IP registered in Mexico. Right now, there is a proposal in the Senate in Mexico to protect the heritage culture in Mexico. This is why this project is important at this time.

#### **5. What steps have you taken (if any to protect your intellectual property?)**

The only way that we have spoken about this is in the session at the University. We only considered what would happen if someone copied the products in the exhibition. We are dealing with this by talking about cultural appropriation in the exhibition – which is the main event. An artisan is talking about her products being plagiarised by Zara. The panel will be chaired by the NGO, Impacto, also an expert from New Zealand, also Fashion Revolution.

## **6. What challenges did you face with the project?**

In terms of IP, because we didn't have enough time to plan how to protect the IP in advance. This exhibition and event took a lot of time to put together. Also, since we are working on a University project and in a big team, so a lot of people are getting involved in a lot of tasks, so we have not discussed what would happen about IP.

## **7. What opportunities did you create/achieve?**

The most important of them all is the networking, because I mentioned all the stakeholders to put the project together. And all the results that have come out of this, the embassy, trusting in the project. We didn't get financial support from the Mexican government, because we should have presented this a year ago. But for future projects, if we present the results, we might get financial support for a second edition.

## **8. Any other considerations agreed? e.g. where something can be sold, how something is attributed, any local laws to bear in mind**

Yes, we made an agreement with the brands on how we are going to accredit and mention them. Also we asked them for their consent to use their films and videos. For example, we are not taking videos or taking images of the exhibition. Because of the time and the budget, because we are not in Mexico. And also we had to get permission to post on social media and the Mexican artisans will have full access to the social media that we created.

## **9. What are the long-term benefits of the project?**

I will research if these projects are viable for social and ethical brands. I'm going to look into the feasibility of these type of collaborations for future projects.

## **10. Is there anything you wish you had known before you started the project?**

First of all, how much time it would take to get the brands on board with the project. It was longer than we planned, because that changed the project. We were planning to have a pop-up shop at the beginning of the project, but because of the restrictions of importing, international trade laws, we could not do this.

## **11. Has Intellectual Property made a difference to your business planning?**

Yes, it's definitely in the project. Yes, if I can find out if this project is viable, I will find a way to register the IP. For example my classmates who created something for the project for example, Alyza who created the poster. I would also set up contracts with the brand. I would definitely consider IP in my business planning for the future.

## **12. What difference do you think it would make for your future projects?**

I think it would protect me, because we are getting media coverage, and social media coverage. This would give us protection, because no-one would be able to steal our logo and other content

It would give us more credibility, because we would be a proper brand.

## **13. Is this significant or not? How?**

I think it is significant, because we are talking about cultural appropriation, it is significant specifically for our project. I think we can develop a project without registering IP, but the problem is that you are not protected. The problem is if you get the images out there, you are vulnerable to the outside world.



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