

January 2020

INTRODUCTION: What is Real? Authenticity, Transparency, and Trust in the Digital Age of Fashion

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Recommended Citation

Joseph M. Forgione, *INTRODUCTION: What is Real? Authenticity, Transparency, and Trust in the Digital Age of Fashion*, 64 N.Y.L. SCH. L. REV. 243 (2019-2020).

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INTRODUCTION: What is Real? Authenticity, Transparency, and Trust in the Digital Age of Fashion

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INTRODUCTION

It is a great pleasure of mine to introduce this issue of the *New York Law School Law Review*, based on the fashion law Symposium *What is Real? Authenticity, Transparency, and Trust in the Digital Age of Fashion* held at New York Law School in 2018.¹

As Director of the Fashion Law Initiative at New York Law School, I was privileged to work with the *Law Review* on holding the Symposium and preparing for this issue. The purpose of the Symposium was twofold: (1) to address the important legal issues raised by new technologies in fashion and (2) to probe the different ways we can achieve trustworthiness in fashion in this digital age. The Symposium hosted attorneys from leading fashion brands, attorneys at private firms who regularly work on anti-counterfeiting and fashion technology, and other industry leaders from well-respected technology companies to discuss truth, fashion technology, and the law. Guest speakers included counsel for Cartier, Christian Louboutin, David Yurman, Estée Lauder, Hermès, Rag & Bone, and Salvatore Ferragamo.

The panel discussions at the Symposium featured an examination of the problem of trademark counterfeiting on online marketplace platforms and the tools used to protect fashion brands; a discussion on the state of social media influencer marketing, including the rise of virtual influencers and lawyers' roles in advising on compliance with applicable laws; and discourse on the rise of blockchain technology in fashion and its important implications for intellectual property and privacy laws. A master class provided an introduction to fashion law and business while exploring the current state of legal and business developments in the fashion industry. Two Keynote addresses discussed fictional fashions as depicted in film and how to draw the appropriate line between design and functionality after the Supreme Court's 2017 landmark decision in *Star Athletica, LLC v. Varsity Brands, Inc.*²

The first article in this issue provides a deep insight into the state of social media influencer marketing, originally presented in a panel discussion at the Symposium. It examines the importance of promoting truth in influencer advertising and why it is advantageous for brands and influencers to comply with applicable laws that govern disclosure on social media channels. The second article is a Note that explores the applicability of copyright law to fashion designs after *Star Athletica*.³ It argues that copyright law is not a sufficient form of protection for fashion designs and that new legislation should be adopted by Congress in order to fill gaps in the current law and provide increased protection for fashion designers.

This Symposium would not have been possible without the support of Dean Anthony W. Crowell and Professor Ari E. Waldman, and many other members of the New York Law School community. I thank them all and hope that this issue will provide innovative, interesting, and informative scholarship to our readers.

1. The Symposium took place on October 26, 2018. *Fashion Law: What is Real? Authenticity, Transparency, and Trust in the Digital Age of Fashion*, N.Y.L. SCH. L. REV., <https://www.nyls.edu/innovation-center-for-law-and-technology/ictevents/fashion-law-symposium/> (last visited Mar. 16, 2020); *Fashion Law Initiative: Mission*, N.Y.L. SCH., <https://www.nyls.edu/innovation-center-for-law-and-technology/institutes-and-programs/fashion-law-initiative/> (last visited Mar. 16, 2020).

2. 137 S. Ct. 1002 (2017).

3. *Id.*