The End of 'Gown in 60 Seconds'?

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NEW YORK, Aug. 10 -- The end may be near for easy access to cheap, unauthorized knockoffs of designer clothes. Capitol Hill has taken up the cause of fashion.

New York Democrats Sen. Charles Schumer -- in a dark suit, red tie and pale blue shirt -- and Rep. Jerrold Nadler -- in a dark suit, red tie and white shirt -- took the stage Wednesday at the Fashion Institute of Technology, along with designers Narciso Rodriguez, Nicole Miller, Richard Lambertson and others, to champion the Design Piracy Prohibition Act. During an hour that was one part C-SPAN and one part Style Network, the group pushed for the passage of the bill, which was introduced in the U.S. Senate last week and would give copyright protection to designers’ work. (A similar bill has also been proposed in the House.)

Unlike other creative products such as movies, music or books, clothing has never been given copyright protection. Designers can trademark a logo, such as a polo pony, graphic lettering or a brand name. They can copyright a specific kind of ornamentation on a garment -- a unique kind of embroidery, perhaps. But they can't copyright the entire design of a dress. A manufacturer could make an exact reproduction of an intricately stitched Zac Posen gown, and as long as there is no counterfeit "Zac Posen" label inside, it's completely legal under current law.

The New York fashion industry generates $47 billion in sales annually. (Only Wall Street generates more revenue in the city.) New York estimates it loses more than $1 billion in tax revenue each year

A copy of Carolyn Bessette's gown appeared in stores soon after her wedding to John F. Kennedy Jr. (Charles Krupa -- Associated Press)
because of counterfeiting. And the New York City police department has argued that black market goods finance everything from child labor to terrorism.

For designers, knockoffs have always been an aggravation. They cut into sales, tarnish a brand's luster and knock the wind out of young designers trying to establish their identity in the marketplace.

But seeking out a bargain basement version of a designer frock has always been considered a frugal shopper's right. Perusing the wares of street vendors for a fake Marc Jacobs or Kate Spade bag is part of the tourist experience in New York. And scouring department stores for the prom version of a one-of-a-kind Oscar gown has become a seasonal tradition.

Back in the days when the world moved at a slower pace, the impact of knockoffs was more modest. There was more lag time before high-end designs trickled down to the world of copies, homages and send-ups. By the time they did, designers had reaped whatever profits they could from their original work and had moved on to the next trend. Hoi polloi were welcome to the season-old designs. Besides, the masses were never going to spend a thousand dollars on a designer day dress or a handbag.

Now, the Internet gives knockoff artists nearly instant access to designers' most recent work -- long before it ever reaches stores. Super-fast and cheap manufacturing in places such as China make design piracy especially efficient and lucrative. And now that designers themselves are launching their own less expensive lines and licensing their names to mass merchants, their customers are no longer limited to those with vast sums of disposable income. They are looking to appeal to everyone: Bergdorf customers to Kohl's shoppers. Imitation is no longer flattering; it's a direct assault on a designer's bottom line.

Fashion design has gone unprotected in part because it can be difficult to distinguish between a copy and a homage. After all, part of the nature of fashion is cross-pollination: one designer's work starts a trend that inspires another. And also because clothing has always been considered a "useful" article under the law rather than a work of art.

The disregard for designer creativity -- for what might be called "research and development" in another industry -- reflects the way in which American culture has always viewed fashion. It's either commodity or frippery. Neither engenders much respect. In France, however, where fashion is held in high regard, clothing designs are protected by law. In the early 1990s, for example, French designer Yves Saint Laurent sued Ralph Lauren, accusing the American designer of copying a black tuxedo dress that the Frenchman had originally created in the '60s and revived in the '90s. In 1994, a French court ordered Lauren to pay almost $400,000 in damages.

Compare that with what happened to designer Narciso Rodriguez.
In 1996 he created the ivory, bias-cut silk gown that Carolyn Bessette wore to marry John Kennedy Jr. Rodriguez estimated that millions of those dresses were sold by companies that copied his design. Rodriguez, who at the time was working for the Italian label Cerruti, had yet to launch his own brand. There was nothing he could do to stop others from profiting from his work. By the time Rodriguez managed to get his own version of the dress into commercial production, he says, he sold about 45 of them.

The Piracy Prohibition Act, which would amend current copyright laws, would have protected Rodriguez's work.

The act, says designer Jeffrey Banks, who has helped lobby for it, would allow a designer to photograph a garment, digitally archive it and register it for copyright protection for a nominal fee. It would be protected for three years. The designer could sue for damages up to $250,000 and press to have the fake goods destroyed. "We're hoping the law will be prophylactic and prevent the need for lawsuits," Schumer says.

Anything already in the marketplace before the law is passed would remain in the public domain. Mass marketers could still produce goods inspired by designer collections. Consumers will retain the right to be stylishly dressed on a budget. And fashion gets a smidge more respect as a creative endeavor worth defending.