

# Regulation and Fashion, A New Approach to Fashion Law



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**Antonio Araldo Ferraz Dal Pozzo**  
Sócio Fundador | Founding Partner  
araldo@dalpozzo.com.br

**Augusto Neves Dal Pozzo**  
Sócio Fundador | Founding Partner  
augusto@dalpozzo.com.br

**João Negrini Neto**  
Sócio | Partner  
joao@dalpozzo.com.br

**Percival José Bariani Junior**  
Sócio | Partner | CLO  
percival@dalpozzo.com.br

**Beatriz Neves Dal Pozzo**  
Sócia | Partner | CEO  
beatriz@dalpozzo.com.br

**Evane Beiguelman Kramer**  
Advogada | Lawyer  
Autora | Author  
evane@dalpozzo.com.br

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**DALPOZZO**  
ADVOGADOS

**SÃO PAULO**  
Rua Gomes de Carvalho, 1510 - 9º andar  
04547-005 - Vila Olímpia - São Paulo  
Office +55 11 3058-7800

**BRASÍLIA**  
SHS Quadra 06 - Conjunto A - Bloco E - Sala 1411  
70316-000 - Edifício Brasil 21 - Brasília DF  
Office +55 61 3033-1760

[dalpozzo.com.br](http://dalpozzo.com.br)

The segment of fashion (and design) is undoubtedly one of the segments of the economy that most interferes in the daily life of society. Suffice it to note that the fashion market involves transactions amounting to trillion dollars per year and represents 4% of the world GDP, in that the Brazilian textile chain is a complete productive chain, i.e., it ranges from fiber production (cotton planting) to sale to the final recipient, through creation, design, spinning, weaving, processing, confections and strong retail.

Clearly, the situations in the course of this extensive fashion chain find resonance in the Law, hence the concept of "Fashion Law".

One of the legal aspects related to fashion involves intellectual property. In the United States, the protection of fashion designers and stylists uses the precedents of case-law produced in legal actions concerning unfair competition, particularly the registration of the trade dress (set of distinctive elements of products, services or commercial establishments, which make the public identify them in the consumer market). In France, there is a specific rule for the protection of the intellectual property of designs - including sewing, fabrics, embroidery, footwear, leather goods, lingerie, etc. - by the *Code de la Propriété Intellectuelle* (French Code of Intellectual Property), Article L112-2, 14.

But the regulation of fashion unfolds in numerous other relevant aspects, namely: (i) quality of the raw material involved and its environmental impacts, a topic that closely relates with environmental law and sustainability; (ii) outsourcing the production of clothing and the risks involved, including the exploitation of slave labor in sewing workshops; (iii) practices and limitations in the production of fitness fashion, especially the quality of the tissues involved, dry fit fabric certification, footwear, tennis shoes, etc.; (iv) practices and limitations in the production of children's fashion, including limitations on baby and children clothes with regard to safety and health (presence of buttons, zippers, hoods, threads, stones and ornaments, etc.); (v) regulation of dyeing processes, including certification of fabrics and dye ingredients; (vi) regulation of format and information on labels; (vii) tax incentives allowed to be created for the fashion segment from quality certifications.



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The fashion industry – the second largest employer in the national industry – obviously needs a regulatory code and the adoption of good practices, such as the introduction of compliance and quality certification mechanisms, without neglecting efficiency, since a good part of its production is seasonal, with periods of launching of collections and products related to the seasons of the year (collections of winter – summer or products that become “must have”). Hence, regulatory, enforcement and compliance mechanisms in fashion must, naturally, be agile and efficient.

One should also mention the phenomenon of wearable technologies, highlighting, in the fashion segment, the worldwide trend of using technology as an element of connectivity between different types of objects, or the “internet of things”.

Examples of wearable technologies come from smartwatches (wristwatches connected to other features and launched by major brands) to the use of graphene to increase flexibility, resistance of fabrics and shoes and even serve as a monitoring sensor of activity and heating of garments.

It means that, in order to guarantee the advances of wearable technologies, regulation is necessary, promoting the safe use of all the functionalities that wearables can provide, a circumstance that entails dilemmas regarding data privacy, security and treatment of data obtained from the treatment of results obtained by “wearable technologies”.

For all these reasons, the importance of legal regulation of wearable technology remains, based on the critical reflection on the conflicts mentioned, such as privacy, intellectual property, competition, sustainability and the difficulties pointed out the uncertainty of the consequences of the use of technological fabrics on human beings and the environment, as well as in light of the economic and social benefits from the diffusion and certainty that the information captured by the technological clothing can generate.