

APPAREL AND ACCESSORIES

Gucci, Balenciaga face backlash over allegations of stealing designs

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Balenciaga's new shirt design is almost identical to one from Ruff Ryders. Image credit: Swizz Beatz

By DANNY PARISI

Big fashion houses are accustomed to knock-offs and cheap counterfeits floating around, but when the tables are turned and designer labels are the ones accused of plagiarism, the issue becomes more complicated.

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This was demonstrated in two recent high-profile instances of a big-name fashion brand being publicly accused of stealing designs from smaller and less-notable designers. First, Gucci was accused of stealing a design from New York designer Dapper Dan, and Balenciaga followed soon after with allegations that it had stolen designs from a Ruff Ryders shirt.

"The difference in size certainly doesn't matter from a legal perspective," said Rania Sedhom, managing partner at [Sedhom Law Group](#), New York. "A protected brand is just that and the size of the company or the fame of the individual who is infringing doesn't carry any water.

"A large company who is overly inspired by another shares the same legal risk as an independent or smaller designer," she said.

Intellectual property

Intellectual property is a messy legal area. There are not always clear cut delineations between what is considered theft and what is simply a similar design.

These kinds of disagreements are also heavily shaped by the players involved. Understandably, an international fashion house has more resources at hand to pursue and shut down unauthorized copying.

On the other hand, smaller designers have less of an audience and less weight to throw around legally, leading to a far smaller chance of getting an accusation of plagiarism taken seriously.

Ruff Ryders, a record label founded by the aunt and uncle of producer Swizz Beatz, found itself in that situation this week when Swizz Beatz posted a photo on Instagram showing a Balenciaga shirt with a startlingly similar design to a Ruff Ryder shirt released earlier.



Swizz Beatz called out Balenciaga on Instagram. Image credit: Swizz Beatz

Swizz Beatz, by virtue of being a public figure with a large following, is able to call attention to this alleged act of theft in a way that many small designers are not able to do. Kering-owned Balenciaga has yet to comment on the allegation.

This accusation came just a few days after Gucci was similarly accused of aping one of the designs of Dapper Dan, an iconic Harlem designer who created a jacket in 1989 that is strikingly similar to a recent one from Gucci.

Gucci was similarly accused of copying two designs from artists in Australia in New Zealand in an almost exact recreation. After the similarities were made public, Gucci seemed to admit to copying, releasing a statement to WWD saying that it was "a creative exchange with street-style and street vernacular using graphics and words that have been Guccified" and has since reached out to the artists.

"A close eye should be kept on both Balenciaga/Swiss Beatz and Gucci/Dapper Dan," Sedhom Law Group's Ms. Sedhom said. "But, if I were to guess, Gucci is likely to emerge unscathed while Balenciaga likely won't."

Legal repercussions

Intellectual property suits such as the ones that could potentially arise from both of these allegations, can hinge on important factors such as whether it is likely to cause confusion and how direct the similarities are.

For example, the Balenciaga shirt and its Ruff Ryder equivalent are so close in design in terms of color, pattern and fit that they look almost identical when viewed from a distance.

Gucci on the other hand is on somewhat safer ground given the fact that the similarities to the Dapper Dan jacket mostly rest on more amorphous traits such as the shape of the sleeves.

"Dapper Dan's accusation is ironic since he was eventually shut down for intellectual property infringement," Sedhom Law Group's Ms. Sedhom said. "While Balenciaga's inspiration borrowed from Ruff Ryder's trademark, Gucci's sleeve doesn't borrow from Dapper Dan's trademark.

"The United States intellectual property laws don't protect designs, they protect names, prints, patterns, logos, etc.," she said. "In certain instances, where a design was an identifier, think Christian Louboutin's red soles, they are protectable, but a shape like a bell sleeve or puff sleeve may or may not be, depending on whether it is an identifier of the brand.

"This is precisely why, for example, fast fashion stores have designs that are very similar, if not identical, to their high-end counterparts. What is different the textiles, the logo, and sometimes, the fit."



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A new Gucci jacket alleged to be a copy of a Dapper Dan design. Image credit: Diane Dixon

While many of these kinds of cases often do not make it to court, some do.

For example, Italian apparel and accessories label Moschino and its fashion designer Jeremy Scott were sued by street artist Rime over intellectual property violations.

Rime, born Joseph Tierney, claimed in the lawsuit that Moschino and Mr. Scott repurposed his mural "Vandal Eyes" without permission for a dress worn by pop star Katy Perry at the Metropolitan Museum of Art's Met Gala in May 2015. To boot, the designer also altered the work of Rime for the dress' print by superimposing the Moschino and Jeremy Scott brand names in spray paint as if it were part of the original ([see story](#)).

The lesson here is that no matter how small the designer whose designs are copied, they are still a protected brand and this does not give bigger brands the right to steal their work.

"There are ways in which brands can work together collaborations, licensing, etc.," Sedhome Law Group's Ms. Sedhom said. "Over inspiration can be detrimental. It will be interesting to see how these cases unfold."

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