

Fashion Faux Pas? Increasing Allegations Against Shein for Intellectual Property Theft and Copyright Infringement

By Kristen Adams

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As one of the top shopping apps used by U.S. consumers¹, Shein has established itself as the retail titan of fast fashion. Many critics believe they've reached this peak of the retail market by using unethical strategies.² Shein's business operations have been in controversy since inception due to hardships on the environment associated with its fast-fashion business model³, abysmal factory working conditions⁴, and frequent allegations of stolen designs from smaller business owners.⁵ These small business owners/designers have difficulty proving that what Shein produces are their stolen designs because Shein's products are only slightly altered to ensure they don't cross the line into copyright territory.⁶ This coupled with Shein's distribution model in which they only produce small quantities of these items for sale⁷ leaves Shein a big window to pull those pieces from the website, avoid litigation, and easily settle with these offended designers.⁸

Some of these designers though, are fed up with how Shein conducts their business and have filed a complaint against Shein.⁹ Three independent designers, Krista Perry, Larissa Martinez, and Jay Baron, have filed this complaint in the California federal court in which they claim Shein's repeated copyright infringements are so aggressive they could amount to racketeering.¹⁰ This lawsuit alleges not only that Shein has engaged in large-scale intellectual property theft but it also criticizes how Shein uses technology, specifically AI to contribute to

¹ Rita Liao, *Shein overtakes Amazon as top shopping app on US app stores*, Tech Crunch (Aug. 28, 2023, 9:40PM), <https://tinyurl.com/5yvryuh>

² Sangeeta Singh-Kurtz, *Shein Takes Influencers on Factory 'Tour'*, New York Magazine: The Cut (Aug. 28, 2023, 1:00PM), <https://www.thecut.com/article/shein-influencer-factory-tour.html>

³ Zhai Yun Tan, *What Happens When Fashion Becomes Fast, Disposable And Cheap?*, National Public Radio (Aug. 28, 2023 12:21PM), <https://www.npr.org/2016/04/08/473513620/what-happens-when-fashion-becomes-fast-disposable-and-cheap>

⁴ Sangeeta Singh-Kurtz, *Shein Takes Influencers on Factory 'Tour'*, New York Magazine: The Cut (Aug. 28, 2023, 1:00PM), <https://www.thecut.com/article/shein-influencer-factory-tour.html>

⁵ Solcyre Burga, *Shein Faces Lawsuit Over Copyright Infringement. Here's What to Know*, Time (Aug. 28, 2023, 8:30PM) <https://time.com/6295035/shein-lawsuit-copyright-infringement/>

⁶ Sharon Pruitt-Young, *Why Indie Brands Are At War With Shein And Other Fast-Fashion Companies*, National Public Radio (Aug. 28, 2023 1:00PM) <https://www.npr.org/2021/07/20/1018381462/why-indie-brands-are-at-war-with-shein-and-other-fast-fashion-companies>

⁷ TFL, *Shein Named in Copyright, Racketeering Lawsuit Over Alleged Infringement Scheme*, The Fashion Law (August 28, 2023 12:00PM) <https://www.thefashionlaw.com/shein-named-in-copyright-racketeering-lawsuit-over-alleged-infringement-scheme/>

⁸ Sharon Pruitt-Young, *Why Indie Brands Are At War With Shein And Other Fast-Fashion Companies*, National Public Radio (Aug. 28, 2023 1:00PM) <https://www.npr.org/2021/07/20/1018381462/why-indie-brands-are-at-war-with-shein-and-other-fast-fashion-companies>

⁹ TFL, *Shein Named in Copyright, Racketeering Lawsuit Over Alleged Infringement Scheme*, The Fashion Law (August 28, 2023 12:00PM) <https://www.thefashionlaw.com/shein-named-in-copyright-racketeering-lawsuit-over-alleged-infringement-scheme/>

¹⁰ Sofia Phillips, *What you need to know about the SHEIN lawsuits*, Thred (Aug. 28, 2023 9:00PM) <https://thred.com/style/what-you-need-to-know-about-the-shein-lawsuits/>

these infringements.¹¹ Shein’s AI technology allegedly is able to select popular designs based on fashion trends and consumer behavior and then generate exact copies of copyrightable designs as their own.¹² This puts any and all small business owners at risk of their designs being stolen and, because of Shein’s tactical small production runs, these infringements often go unnoticed.¹³

The infringements directly mentioned in this case are “truly *exact* copies of the plaintiffs’ copyrightable graphic designs” that have shown up in Shein’s products and the plaintiffs assert they “have suffered and will continue to suffer substantial damage to their businesses in the form of diversion of trade, loss of profits, and a diminishment in the value of their designs and art, their rights, and their reputations”.¹⁴ This upcoming litigation follows a current trend seen in the fashion law sector in which smaller designers are attempting to attack large corporations for stealing their designs. I’m eager to see how this litigation pans out but, so far no other court dates have been set. As a fan of the underdog, I hope the plaintiffs in this case are satisfied with the results of the trial and Shein is held responsible for their alleged actions.

¹¹ Jonathan Roffe, *IP Theft, Data Security Breaches and RICO Claims, Oh My! Is E-Commerce Titan Shein the Fashion Industry’s TikTok?*, Clark Hill (Aug. 27, 2023 8:00PM) <https://www.clarkhill.com/news-events/news/ip-theft-data-security-breaches-and-rico-claims/?blaid=4827594>

¹² *Id.*

¹³ TFL, *Shein Named in Copyright, Racketeering Lawsuit Over Alleged Infringement Scheme*, The Fashion Law (August 28, 2023 12:00PM) <https://www.thefashionlaw.com/shein-named-in-copyright-racketeering-lawsuit-over-alleged-infringement-scheme/>

¹⁴ *Id.*