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EFFECTIVENESS OF INDUSTRIAL DESIGNS RIGHTS
ENFORCEMENT ON THE GHANAIAN FASHION INDUSTRY

BY

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A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE
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Abstract

This research assessed fashion designers in the fashion industry in Ghana to ascertain the effectiveness of Industrial Designs Rights enforcement on the fashion industry in Ghana. Using fashion designers who belong to the Association of Ghana Apparel Manufacturers in Ghana, the study examined some of the various enforcement agencies in combating infringing of designs rights. The study used a mixed research approach using both qualitative and quantitative research approaches. It also utilized convenience-sampling technique to obtain the data needed. The study revealed that there is minimal effectiveness of industrial designs rights enforcement system by enforcement agencies in Ghana to protect creations of designs though Government is gradually putting in place efforts to help motivate for more creations and to compensate affected designers who have their designs infringed upon. The study also revealed that most fashion designers believe in only seeking protection of their business names by registering with the Registrar General Department (RGD) to start operation leaving the other vital part of seeking protection also with the Intellectual Property Office (IPO) as majority are not encouraged by the enforcement agencies in the event of infringement of their designs. However, there is still hope for fashion designers to be encouraged to protect their designs and Ghana as a whole to explore strategic policies for enforcements of design right. The study recommended more education and awareness among fashion designers on industrial designs protection. The government could also restructure policies aimed at improving the textile industry through enforcement mechanisms and increment of employment opportunities.

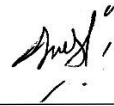
Keywords: Industrial designs rights, Industrial designs rights enforcement, fashion

industry, enforcement effectiveness

Declaration

I declare that this dissertation is my original work except where sources have been cited and acknowledged. The work has never been submitted, nor will it ever be submitted to another university for the award of a degree.

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Dedication

This study is first, dedicated to God Almighty who has seen me through and continues to see me through all the changing scenes of my life and to my family who have always been there for me and for supporting me through their prayers, love, and words of encouragement.

List of Acronyms and Abbreviations

ARIPO	Africa Regional Intellectual Property Organization
AU	Africa University
AUREC	Africa University Research and Ethics Committee
IP	Intellectual Property
IPRs	Intellectual Property Rights
MIP	Master in Intellectual Property
RGD	Registrar General's Department
NGO	Non-Governmental Organizations
WIPO	World Intellectual Property Office
WTO	World Trade Organization
WTO	World Trade Organization

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CHAPTER 1 INTRODUCTION

1.1 Introduction

This research discusses the fashion industry as a whole and the possible intellectual property tools available to protect fashion creations focusing mainly on industrial designs. It also summarizes how various laws in Ghana govern the tools used to protect these intellectual properties such that these rights holders are protected for a period. And as such using these designs without the prior consent of the design owners constitutes an infringement.

Registration of Industrial design confers upon the rights-holder exclusive rights to use the design for a specified period. In instances where the rights of these creators are infringed, various enforcement approaches to combat these infringements are implemented. Design infringement occurs when a third party produces, uses, sells or imports the design product or confusingly similar design without the prior permission or authorization of the registered design owner. This research therefore focuses on assessing the industrial designs rights application by fashion designers in Ghana and how effective this industrial design rights enforcement are on the Ghanaian fashion industry.

The fashion industry in Ghana is ever evolving and has tremendous value on intellectual capital when it is able to secure its creations through literary and artistic works, symbols and images or logos and inventions. Yet little attention is given to protect such intellectual assets. Though different intellectual property (IP) tools exist to protect such creations, the most used instrument according to the study of Sikoyo, Nyukuri and Wakhungu (2006) on the regulation and protection of all types of IP is the Trade related Aspects of Intellectual Property (TRIPS Agreement). TRIPS Agreement has regulated laid down standards to be used as regulations by national governments. Ghana, a developing country,

is still in the early stage of fully enjoying the benefits from IP, as compared to the developed countries who are already enjoying these benefits. This can be because most fashion industries in Ghana do not fully understand the significance of Intellectual Property Rights (IPRs) and how they are effective to be a better tool for better performance.

Baker Library Staff (2002) describes IP tools as an establishment on ideas that allows a creator to use the legal system to protect and profit from the use or intellectual activity in the fields of literary and artistic fields, scientific fields or industrial field, of their intellectual property. Some of these IP tools include but not limited to trademark, patents, utility model, industrial design, copyright and related rights or trade secret. The study of Adams (2018) suggests IPR's are human rights of protection for innovativeness and creativity. That is, rights given to creators of designs or inventors of patents, trademarks or copyright works of their minds, amongst a few, to benefit from their own works thereby giving the creator exclusive rights over the use of his/her creation for a certain period of time (World Intellectual Property Office, 2008).

The term of protection according to WIPO (2008) differs from country to country with duration usually being between 10 to 25 years. Industrial design registration in Ghana per the amended Sec 10 of Act 660 assented on October 27, 2020, is valid for five years and may be renewed for four further consecutive periods of five years after payment of prescribed fees are made.

The study of Chowdhary (2015) shows that the origination of fashion came as an art form that utilized elements of art and design to create clothes that were attractive and worth emulating. Fashion simply means a particular style that is popular for a period. A particular style in fashion be it clothes and its accessories, hair & make up (cosmetics),

automobile, housing, furniture and many others, is popular only for a period of time as its being shaped by globalization. The textiles industry addresses one of the necessities of man, which is clothing and as such, there is high demand for it.

There is nothing so heartbreaking than to invest your time, energy and money in an idea, creative expression or an art only to lose ownership of it and benefiting nothing when a third-party steal and uses ones hard earned creations without any authorization from the rights-holder. Intellectual Property Right (IPRs) exists to correct situations like this.

IPRs are property rights, which subsist in something intangible (Adams, 2018). It thus represents a cluster of rights, which offer protection for innovation and creativity in any field of human endeavor. The expression of an idea for an invention is the focus, which details have been worked out and takes the form of a product or process that can be applied industrially. Various categories of IPRs exist which include patents, trade and service marks and copyright among others (Sikoyo et al, 2006). Given this, the growing concern is the subject matter of coverage, which has to do with the range of rights that the holder enjoys, and the protection offered under the various international protocols (Sikoyo et al, 2006)

The aim of this study, therefore, is to analyze the effectiveness of intellectual property rights (IPR) focusing mainly on industrial design rights enforcement on the fashion industry in Ghana. This chapter is made up of the introduction, background to the study, statement of the problem, research objectives, review of literature and methodology.

1.2 Background of the Study

Ghana is endowed with rich culture and traditions and the manner in which its people dress forms an integral part of its rich display of culture. Some of these designs include

the brilliantly colorful and hand-woven maze-like designs of Kente, (which is adored by most Ghanaians to celebrate special occasions), batik, and tie and dye fabric designs. Luxurious goods and products are also considered fashion as it is not only restricted to apparels as day in day out. With every passing year, completely new collections are produced by the fashion hub and this needs to be protected through IPR protection to guarantee only the right holder of its use and regulated by a proper set of laws (Diwadkar, 2018).

Ghana is also endowed with not just abundant natural resources but is blessed with one of the youthful populations in West Africa with most of these youths employed directly or indirectly in the creative art industry. The Ghanaian creative art industry is a unique but diverse one, which is not only about music and performing arts. This industry also covers other sectors such as cultural and natural heritage, visual arts and crafts, books and press, audio-visual and interactive media, and design and creative services. These are all sectors where intellectual property is the product of skills and talents. The African fashion design industry can capture value through the use of intellectual property. The Creative Arts industry is so critical in many countries to the point where the term “Creative Economy” has come to exist. The relationship between creativity and economics is what sums up to be what creative economy is (Suciu, 2008). It describes an economic system where value is based on novel imaginative qualities rather than the traditional resources of land, labor and capital.

Digesting the issues further, a creative economy is one in which the major source of revenue are not natural resources like gold, cocoa, timber and oil, but intellectual property like recorded music, movies, theatre, tourism, interactive media, novels, crafts, among others. As indicated by a good example is the economy of Abu Dhabi, where they have

shifted attention from oil production to creativity and arts as a source of revenue. Juxtaposing the above to that of the Ghanaian creative industry, the narrative is different, the creative industry is still developing and most of the artists in the industry are gradually appreciating IPR and coming to terms that, intellectual property forms the core foundation of a creative economy. For businesses to be successful there is a demand for constant innovation, creating new products for the dynamic market and finding new solutions to problems.

The fashion industry was set up some many years ago to elevate the living standards of Ghanaians as textiles was considered the most important consumer good around which the country's industrialization could evolve. A couple of large-scale textile factories were established in Ghana some of which include; Ghana textile printing company (GTP), Akosombo Textiles Limited, Juapong Textile Industry and the Tema Textile Limited to produce high quality textiles in large quantities to meet the clothing needs of Ghanaians and also for exports to other countries as foreign exchange.

The fashion and textile industry in Ghana are rapidly growing and it's potential to be on the map both as a producer and ultimately a consumer of luxury goods is steadily growing as well (Fashion revolution Ghana, 2019). Fashion industry plays a very huge role in the development of every nation by helping generate income for living. Fashion continues to be a very significant source of employment for both men and women in Ghana. According to the study of Howard (2013), food is the first and major priority to man with clothing coming second to that. A person's clothing, which is derived from textiles, uniquely communicates about the wearer to the public about the purpose or occasion for which one is dressed.

Clothing depending on how it is worn depicts modesty or could trigger moral outcry. Clothing can be accessorized to enhance the beauty of the wearer. These accessories come in various forms, which can also be protected under intellectual property. They may come as hair accessories, handbags, beads, bracelets, and anklets, watches produced from metals, textiles, or leather. Accessories are equally important in the fashion business as they improve the beauty of the wearer and promote a total fashion look. They thus compliment the look of the wearer. When it comes to clothing and fashion, all forms of art on the body over its evolving seasons is taken into consideration.

Fashion globally is seen as a multi-billion-dollar industry that serves an avenue for job creation, for designers, models, beauticians and make-up artists among a few (Mould-Iddrisu, 2002). Osei-Boateng and Ampratwum (2011), suggest that 80 percent of the Ghanaian workforce is employed in the informal sector which is made up of micro and small-scaled enterprises who are largely self-employed and made up of traders, farmers, craft-workers, food processors, fashion designers, just to mention a few. The manufacturing of textiles in Ghana is done by an industry that produces batik, Kente cloth, wax cloth and printed cloth and has over the years shown significant growth and has promoted high standard quality traditionally designed fabrics (GIPC, 2020). The textiles factories in Ghana have contributed enormously in the past to the development of the country, as it has been the major industrial source of employment for many Ghanaians. (Howard, 2013).

According to the study of Howard (2013), textile factories in Ghana rely mainly on imported raw materials and machinery which consist of dyestuffs and chemicals as well as calico from the Netherlands, China, India, U.S, E.U, Nigeria, and Thailand, etc. to survive. Whereas raw material imports such as cotton are essential to local production,

imported African prints from Nigeria, Côte d'Ivoire and South-East Asia tend to overshadow local production. These finished products often bear the patents, designs, logo or trademarks of local textile industries, which are sold on the local market at a very cheap price. When it comes to these clothing or textiles being infringed, the criminal code 1960 provides types of actions, which are deemed fraudulent including IP fraud. Violators are deterred from repeating crimes through criminal prosecution. Most offenders believe they will not be prosecuted or be criminally liable for buying or trading in fake products once these designs get into the Ghanaian market. There are various enforcement approaches the government of Ghana uses when it comes to IPR infringements, which include, criminal enforcement, criminal prosecution, administrative enforcement, civil enforcement, and civil litigation and through other measures such as Non-Governmental Organizations (NGO's) and professional organizations.

Intellectual property (IP) plays an important role in enhancing the growth of an economy, but its value and potential is underestimated by fashion houses in Ghana and not considering the fact that consumers demand for IP protected products or services would foster a higher performance by these fashion designers. IPR's allocation to the owner of a work ensures they do not lose rights to the information through its disclosure (Sikoyo et al, 2006).

This research work is tailored to understand the parameters of intellectual property and to explore the Ghanaian enforcement agencies and their approaches to enforce infringement cases and their stand on industrial designs enforcement. Aside from this, the research work also seeks to explore fashion designers' understanding of industrial design and to lay down basic ideas and solutions to help the government achieve a better creative economy. The

figure below shows the various fabrics adorned and characterized by various countries. It also shows that of Ghana, which is the Kente fabric.

1.3. Statement of the Problem

Despite the efforts being implemented by government to help curb infringements, to clamp down perpetrators of infringing goods, the problem is still large. Though these actions have scared a few infringers away, the government's efforts is still not having enough meaningful impact to encourage fashion industries to protect their creations.

IPR's play a significant role in facilitating economic growth and inspiring technological advancement. They play a very important role for rights holders to secure returns from their innovations. Several Intellectual Property tools exist to protect designs created by fashion designers in Ghana, use of these tools is still relatively low by these fashion designers. Though these various IP tools significantly contribute towards the high-level performance by these designers to improve upon their socio-economic well-being, as well as contributing to national development, fashion designers in Ghana do not take advantage of this great opportunity and advantage. Ghana's fashion designs have great potential to compete in the global fashion industry. In this light, it is important to appreciate how the IP system operates beyond the continent's borders, particularly within key export markets. Before creativity can be managed, the economics of creativity must be understood. Managing creativity involves first knowing when to exploit ideas and when to assert IPR and make one's own ideas as product rivalries (Suciu, 2006). The author also states the key to understanding the new economic geography and creativity and its effects on economic outcomes lies in the 3T's of economic development, Theory, technology and talent. According to (Sikoyo et al, 2006), Intellectual Property has assumed various roles not only by acting as incentive to invent and innovate but also as a tool for ensuring

equitable and fair utilization of genetic resources. However, the government of Ghana does not seem to have the right system nor the commitment to give all the resources needed to enable court system to execute its mandate and function in relation to IPR enforcement.

The Ghanaian culture and design are well admired all over the world but the question we keep asking is why performance of this industry is still not a match with countries such as Paris and Italy? In Ghana today, most fashion designers are faced with the problem of assessing the need to protect their creations and the effectiveness of industrial designs rights enforcement on their creations to encourage new talents to produce more designs that are original. Enforcement of industrial designs is crucial to protect valuable designs in order to ensure rights owners get to enjoy a continued fruit of their labor. Having access to design litigation expertise to help resolve design infringements in a quick and efficient manner is of great importance to the fashion industry. In view of this problem, the basis for this research is formed.

1.4.Purpose of the Study

The purpose of this study is to assess the effectiveness of industrial designs rights enforcement on the Ghanaian fashion industry. Specifically, to determine how effective these enforcements are. This study intends to fill the knowledge gap to draw the attention of the effectiveness of Industrial designs rights enforcement on the performance of the fashion industry in Ghana.

1.5.Objectives of the Study

The objectives of this study were to assess the effectiveness of IPR enforcement on the fashion industry in Ghana with particular reference to industrial designs rights. That is to find out ways of improving awareness on how IPR enforcement has on the performance

of the fashion industry to generate intellectual assets for its growth and provide possible recommendations on how best to help government of Ghana tackle this problem. This study seeks to improve the knowledge gap of awareness by assessing the tremendous value industrial designs protection has on creations for the fashion designers to build and grow successful businesses in the fashion industry. Furthermore, other objectives of the study include,

Specifically;

1. To examine how often industrial designs protection is used by Ghanaian fashion designers to protect their designs.
2. To assess the effectiveness of industrial designs rights enforcement has on the performance of the fashion designers.
3. To assess the effectiveness of the support government of Ghana gives fashion designers when it comes to industrial design issues or infringements and provide possible recommendations on how to help tackle this problem.

1.6.Research Questions

To address the research objectives effectively, the research questions were the following:

1. How often industrial designs protection is used by Ghanaian fashion designers to protect their designs?
2. How effective are enforcement agencies such as the CID and other agencies ensure designs of fashion designers are protected from being copied or used without owners' consent?
3. Is support the government gives fashion designers when it comes to industrial design issues or infringements effective?

1.7 Assumptions

There is a deep appreciation and productivity of the Intellectual property system particularly Industrial designs such that it has a direct link with the performance of the fashion industry in Ghana. Increase in enforcement approaches to tackle infringement cases will have a positive output on the performance of the fashion industry and increased awareness of the impact of IP particularly industrial design to economic development in Ghana.

1.8 Significance of the Study

1. To the academia, it is the aim of this research to explore the reasons for limited understanding of industrial designs rights in the Ghanaian fashion industry.
2. To the fashion industry, this study aims to provide the fashion designers in Ghana with ideas about how they can use intellectual property to enforce their IP rights, specifically industrial design to remain competitive and original. That is for the fashion designers to be aware and understand that rights from industrial designs protection of their designs is a tool for better performance.
3. To the researcher, this study also aims to contribute to the research of industrial design enforcement in Ghana.

1.9 Delimitations of the Study

Firstly, though there are many industries like the education sector, scientific inventions etc., that lack knowledge of the IP laws, this study only focused on the fashion industry to give the study a clear direction. Secondly, the study only used fashion designers in Accra from the Association of Ghana Apparel Manufacturers as the target population and ignored other cities. This is because Accra contains

the most successful fashion businesses in the country, as they will be more likely to contribute towards the study.

1.10 Limitations of the Study

In conducting the research, the limitations encountered were as follows:

1. Due to the Covid -19 pandemic, soliciting data from some of the respondents was difficult as they refused to meet for the one on one interview in order to fill the questionnaires. Calls were made to some of the respondents to get the information from them.
2. Some other respondents refused to participate in the survey to fill either the questionnaires or the interviews.
3. Those who were willing to fill refused to fill the questionnaires unless the questionnaire was sent to them through WhatsApp. Therefore, a google form was created and the link sent to these respondents.
4. Most of the respondents did not see the value of industrial designs right protection. Because of this, they did not the need to fill and return the questionnaires.

1.11 Stucture of the Study

The study endeavors to access the effectiveness of industrial designs rights enforcement on the fashion industry in Ghana. It further seeks to raise the level of awareness of intellectual property, particularly industrial designs for protection of artistic creations of designs. The study begins with:

Chapter one starts as the introductory chapter. This chapter also focused on the background of the study, statement of the problem, the purpose and significance of the

study, the research objectives and the research questions. The possible limitation to this study was highlighted.

Chapter two reviewed the related literature. This section began by laying out, analyzing and reviewing existing literature critically. It also provided the industrial designs enforcement approaches used in Ghana in the fashion industry. In addition, the theoretical dimension of the research was looked at. It also looked at how giving a clear picture of issues being discussed around IP, conditions IP to thrive, challenges of IP and the benefits that comes with having a fair knowledge about IP in the Ghanaian Fashion Industry. The enforcement institutions, the judiciary and Governments efforts to make IP work were explored.

Chapter three defined the research methodology. In this chapter, the methodology used for this study was outlined. The research population and sampling techniques used to gather data was also outlined. The data collection instruments, and data collection procedure were described.

Chapter four analyzed and presented the findings of the research, focusing on the three main research questions led to solving the research problem under discussion.

In chapter five, the conclusions, implications and recommendations were presented. This chapter drew general conclusions from the results from the data presentation, analysis and interpretation. It also discussed summary of findings of the research as well as presented recommendations.

CHAPTER 2 REVIEW OF RELATED LITERATURE

2.1. Introduction

According to Diwadkar (2018) designs, innovation and unique trends form what is at the heart of fashion and that the fashion hub produces new collections of designs that need to be protected and regulated by proper law. Trademarks, Design right, Copyright, are some other IP tools fashion designers can use to protect their creations. Creators engaged in innovative activities consider enforcement of intellectual property rights and the threats associated with this enforcement as of primary importance (Lanjouw & Lerner, 1997). While other research in relation to this topic has been investigated and examined in different perspectives, particularly in other countries, my research focuses mainly on the enforcement of industrial designs rights of Ghanaian fashion industry because Ghana is still a developing country and the awareness is still limited. More often, intellectual property (IP) and its value are not well appreciated hence, if a creation is left unprotected, it may be lost to other competitors with the original owner left with no financial benefit or reward. In addition, where enforcement of infringement of such protected creations is not very effective, creators may lose interest in going ahead to protect their creations or even to create new designs. There is also little knowledge on how effective the enforcement on infringers of these designs is by these designers. A culprit found to be knowingly making, selling, distributing, or transporting for commercial purposes designs without the prior consent or authorization of the rights owner is considered to have committed infringement and is liable to both civil and criminal penalties.

Faster creation, production, distribution, use and design piracy is being easily enabled because of the digitization of the fashion industry. The excessive piracy and its effect on

the fashion industry is increasing yet there is little academic research about its effect on the upcoming fashion designers (Janssens & Lavanga, 2018).

IP are the legal rights, which aim at protecting creators and other producers who have created goods and services from their intellect by granting them a limit of period within which to control the use of the creations (WIPO, 2008). The rationale for this is to foster creativity and promote innovation for economic growth. Through IPR protection, originators of designs are assured of protection for their designs from being stolen or infringed upon and for them to regain interest in their time and resources invested in creating a design. IPRs promote technological transfer into low-income countries, which enables them to grow.

If the human figure is absent, fashion cannot be critically examined and its communication factors assessed. The human figure is therefore seen as an essential feature in adorning or decorating the body with fashion accessories. Various users usually see beauty of fashion differently. What is considered beautiful usually varies from one culture and ethnic setting to the other as well as from one continent to another. The human figure adorned by fashion accessories cannot be in isolation from what constitutes the idea of ideal figure in the Ghanaian society of which Ghana

Through design, a firm's quality image and product integrity can be communicated depending on the type of enterprise. Designs can play different roles within companies and the importance that management chooses to assign to it. This will depend on the individual company's philosophy and the sector in which it operates, whether to limit design to the product or extend it to a whole process. Firms have been able to attain efficiencies, in both time and cost by integrating design into the entire process at an earlier

stage of new product development. Industrial designs allows firms to differentiate themselves and their products, thereby allowing them to have superior value compared with more market-driven products or services. Protection of design rights may give incentives to innovate and invest in design in both manufacturing and service industries. Complexity of design is classified as an informal method of protection. To the realm of technology products the complexity factor may appear to be relevant. Complexity has been the hallmark of designers and artisans for centuries. This can be seen through the technique of engraving fine intersecting and overlapping lines on the plates of banknotes or stamps. Manufacturers of jewelry, fine art, craft works, timepieces, and weaponry in order to provide a superior appearance and set them apart from simple imitations use complexity of design. While many elements of a design may be evident from the appearance, it this does not necessarily mean that competitors have the knowledge or abilities to recreate the product expressing that design. Design is linked naturally to brand identity and the firms that own these brands. A firm's performance is positively associated with its industrial design intensity.

A significant amount of time and resources is often devoted by Enterprises to enhance the design appeal of their products. In creation of a New and original designs, these business owners put certain factors into consideration. Some of which include, modifying products to appeal to specific market segments. Fashion designers making small modifications to their designs may make them suitable for different age groups, cultures or social groups. While the main function of fashion clothing remains the same, children and adults generally have very different tastes in fashion designs. Fashion designers may also strengthen their designs by improving upon it to suit different preferences of consumers.

2.2 Theoretical Framework

This study adopts the Regime theory, which emphasizes cooperation in trade, human rights and collective security as it assumes world governance to ensure compliance and cooperation among states (Adoma, 2016). International Regimes as defined by Stephen Krasner in his book, as sets of principles, norms, decisions rules and procedures which promote a convergence of expectations in a given issue area of international relations (Brahm, 2005). This theory has been criticized for failing to address certain issues in the international system such as political change.

According to the study of Sikoyo, Nyukuri and Wakhungu (2006), the debate on IP has assumed increasing importance in the international community because of the emergence of new forms of technologies referred to as crosscutting technologies and biotechnology. The introduction and use of these technologies have resulted in a rapid change in the application of knowledge as it affects basic human needs. Following this development, it has been argued that property rights extended to these technologies will not only increase the costs of accessing these technologies and but ultimately widen the gap in technology between developed and developing countries (Sikoyo et al, 2006). It thus calls for concerted efforts especially by developing countries to narrow the gap and develop means by which to benefit from this depth of wealth embedded in these technologies.

Intellectual property rights are property rights inherent in something intangible, which are aimed at protecting and rewarding innovations. They are concerned with the expression of an idea for an invention, the details of which have been worked out and take the form of a product or process that can be applied industrially (Sikoyo et al, 2006).

Developments over the years have given rise to various intellectual property rights, albeit, with some controversies. These controversies have to do with the subject matter of

coverage, the range of rights that the holder enjoys and the range of international protocols, which give protection to these rights. In addition, they also relate to trade, competition, industrial growth and economic development (Sikoyo et al, 2006). Essentially intellectual property rights perform two basic functions, which are, to create incentives for innovation and to help diffuse knowledge. Competition is seen in this regard as the medium, which creates monopoly power leading to improved acquisition of knowledge. The appropriation of this knowledge through the IPR regime, it is argued, is what acts as incentive to invent and innovate. In enforcement of IPRs, an aggrieved rights owner winning a case may generate benefits as well as net current payments. This is however argued by (Goburdhun, 2007) who is of the view that an infringer who is selling a fake material or design is not the same as selling dangerous drugs and as such the infringer should not be considered as a criminal just because he dealt in an illegal act. The action of selling these fake designs was probably to meet his basic needs and that of his family. The author further suggested legislation be enacted to make way for community services to be imposed on petty offenders in place of fines.

Accessories such as shoes and handbags, and underwear are closely associated with the fashion industry although they are usually not considered part of the apparel industry for trade and statistical purposes. The production of accessories varies from the production of very expensive luxury goods to inexpensive mass-produced items. Just as the case of apparel manufacturing, accessory production tends to gravitate to low-wage environments. Fashion designers promote their clothing designs not only to retailers that is fashion buyers, but also to the media such as fashion journalists and directly to customers.

Designers, who produce of high-end accessories such as women handbags, are faced by competition from counterfeit goods that are sometimes produced using inferior materials in the same factories as the authentic goods. It costs fashion designers hundreds of millions of dollars annually in lost sales. Trade in such counterfeit imitated goods is illegal under various international agreements but this difficult to control.

Globally, the World Trade organization (WTO) was established as an international arrangement between all member states when it comes dealings of rules of trade. The Trade-Related Aspect of Intellectual Property Rights (TRIPS agreement) which is an international legal agreement has Article 7 that provides the legal basis for IPRs to make it possible for innovative firms to appropriate the benefits of their innovation. The study of Sikoyo et al, (2006), suggests that firms are able to derive appropriate benefits of their innovative activity through IPRs though that is not the only way for them. There are however other forms of appropriation available where they can take the use of lead-time advantages and technological complexity.

Countries are therefore challenged to put in place appropriate policies, which encourage innovation and knowledge dissemination without breeding an unhealthy monopoly that interferes with the diffusion of new knowledge and innovations (Sikoyo et al, 2006).

Howard (2013) states the fashion industry and its essential products and its high rate of employment contributes to economic development. Similarly, the study of Bennet (2009) attest to it that the reduction in unemployment and ensuring better living conditions of people is all as a result of the textile factories playing a crucial contribution to national development. He further states that because the products of the textile industry are of utmost importance, the fashion industry plays a huge role in the economy. The fashion

industry provides one of the necessities required of life and as such development to the community. According to Goburdhun (2007), the main goal of a growing economy is to make provision for the welfare of its people. In addition, as such, adopting a soft approach to punish infringers may give them time to reflect on their actions and learn to build new skills so as not perform the act again.

As indicated earlier IPRs exist in various forms and aimed at protecting different aspects of knowledge. The most prevalent forms of IPRs include patents, trademarks, copyrights, trade secrets (Sikoyo et al, 2006). However, the study of Neuhausler (2009), in his paper, Formal vs. informal protection instruments and the strategic use of patents in an expected-utility framework argues an alternative appropriation strategy as to the broader field of IP protection by differentiating between the formal protection which is of the legal forms and the informal mechanisms such as secrecy. In addition, the author further indicates that larger companies usually use the formal protection whereas the informal is used by smaller business. Goburdhun (2007) emphasizes that, the informal sector consists of more people that are vulnerable. As a result inflicting heavy fines in enforcing IPRs and putting them behind bars is not a proper step in the right direction.

Janssens and Lavanga (2018) in the journal of fashion theory, an expensive, confusing, and ineffective suit of armor: Investigating risks of design piracy and perceptions of the design rights available to emerging fashion designers in the digital age, are of the view that original creators can have the upper hand and advantage as the first mover by selling a large number of their fashion products before infringers produce and release on the market counterfeits products. This is argued by Raustiala and Sprigman (2006) that through copying, innovation and benefits to originators may be promoted as copying is very harmful to these originators.

In Ghana, very few fashion designers have become famous. Fashion designers, such as Coco Channel or Calvin Klein, who create prestigious high-fashion collections, whether couture or ready-to-wear. These designers are influential in setting trends in fashion. They strive to design clothes that will meet consumers demand. The vast majority of designers work in anonymity for manufacturers, as part of design teams, adapting trendsetting styles into marketable garments for average consumers.

Film and television costumes, street styles, and active sportswear are sources from where designers draw inspiration. Computer-assisted design techniques have supplemented or replaced Traditional design methods such as doing sketches on paper and draping fabric on mannequins for most designers. These allow designers to rapidly adapt and make changes to a proposed design's silhouette, fabric, trimmings, and other elements and provide them the ability to upgrade.

Ghana, in the year 2016 launched its national IPR's policy and strategy in an attempt to establish and create an enabling environment convenient for investments and innovations. To help in enforcement, government officials tasked with the mandate perform raids in markets for counterfeit and pirated works and conduct inspection of shipping importations.

2.2.1. Some types of Intellectual property Rights and fashion

Creations in the fashion industry are protected under both industrial property and Copyrights. Industrial property consists of mainly industrial designs, trademarks, patent and trade secrets. For this research, the focus is on industrial designs in the fashion industry in Ghana.

2.2.2. Industrial Design and Fashion

The Industrial Design Act, 2003, Act 660, governs industrial design registration in Ghana. Design's protection focuses on the aesthetic aspect of the product. For an aesthetic creation to be of value importance to the creator, it is key for it to be covered under industrial design protection. Protection also covers textiles designs. Industrial design registration per the amended Sec 10 of Act 660 assented on October 27, 2020, is valid for five years and may be renewed for four further consecutive periods of five years after payment of prescribed fees. In matters of late renewal, a grace period of six months is allowed at a fee. Registration of designs enables owners or right holders to have exclusive rights on the usage of their designs. A greater part of the fashion industry involves around innovativeness and creativity and satisfies the criteria of being an aesthetic design and serving as a utility to consumers (Mould-Iddrisu, 2002). According to the study of Howard (2013), making a choice on buying a textile highly depends on how appealing and attractive the textile design is to the consumer who due to their strong desire for attractive clothing, are constantly searching for new, attractive and different textiles designs. Distinctive apparels under industrial design may include batik, tie & dye, the boubou mostly worn by the people of the northern parts of Ghana. Protection through industrial design assures the designer's designs are protected against infringers. This encourages the designers to be more creative and innovative and the consumers are given the opportunity to decide on their preferences as to which designers' products they prefer when purchasing choice is being made. In Ghana, for a design to be protected, it has to be registered with the national IP office. Similarly, most countries have the same requirements. For a design to be protected, it has to be new or original and that it differentiates itself significantly

from other known designs and it should not also be against public order and morality. The Ghanaian wax-print company, Ghana Textiles Printing (GTP) in 2020, launched a new design line with inspiration from the Covid-19 pandemic, which has symbols like padlocks, keys and planes as a reflection of some of the implementation measures to curb the spread of Covid-19 pandemic (Ghana web, 2020).

The Hague Agreement allows an applicant to file a single application at the international level at the World Intellectual Property Office (WIPO) when it comes to the international registration of an industrial design in several countries. The Industrial Design Act, 2003, Act 660, governs industrial design registration in Ghana. For a design to be registered in Ghana, it must be new or original and must differ significantly from known designs, and must not be contrary to public order.

Section 8A (1) of the Industrial Designs Act with regards to registration and publication of designs has been amended to include that an applicant may request in writing to defer his design from being published by a maximum of 30 months effective from his priority date. Despite this section, under subsection (2), during his deferral period, he may at any time request for his design to be published. Where a registered industrial design is infringed by a third party, according to Sec 22A of the amended Act 660, the right owner in writing may give notice to the commissioner of police by providing details about the suspected goods. The reason, for which a detention of the goods is being requested, and any other information the commissioner may require and paying a sum of money to cover the expenses the commissioner may incur in examining the goods. Where the goods are found to be infringing that of the rights holder, the rights - holder will be notified of this and the goods detained. The courts may grant an injunction on the infringing goods and the rights holder may be awarded for damages per the court's consideration. Industrial

designs applications in Ghana keep increasing each year. Both local and African Regional Intellectual Property Organization (ARIPO) applications are received on a yearly basis. Ghana is a party to the ARIPO protocol of industrial designs. Which is the Harare Protocol. When applications are filed through ARIPO and Ghana designated, ARIPO accords the application a filing date upon meeting and complying with all formal requirements. ARIPO then forwards the application to Ghana where before the expiration of six months from the date of notification provides a written notification to the ARIPO office if the design is registrable or not.

As Table 1 below depicts, in 2018, approximately 800 applications were received and registered in the Ghana Industrial Property Office out of which 787 were made up of textiles' designs and the rest being industrial designs making up national local applications and the rest, 13 were ARIPO design applications from the Ghana Industrial Property Office. The applicant who filed the most applications in 2018 was Premium African Textiles with 547 textile design applications. In addition, they filed the highest of 640 applications in 2019.

A sum of 1,104 applications were received and registered in 2019 with 1,056 applications being local applications out of which 1050 were textile designs and the rest industrial designs and 48 filed ARIPO applications. A breakdown is provided in the table below.

Table 1.0: Industrial designs applications

Applicant	2018	Design type	2019	Design type
Printex limited	197	Textile fabric	229	Textile fabric

Vlisco B.V	31	Textile fabric	107	Textile fabric
Premium A. Textile	547	Textile fabric	640	Textile fabric
He reigns int. sch.	1	Textile fabric	0	-
Cecil F. Adjete	11	Textile fabric	0	-
PZ Cussons	0	-	2	Industrial designs
Princebrim Enterprise	0	-	72	Textile fabric
Sakoi vision	0	-	1	Industrial designs
Kwame Nsiah	0	-	1	Industrial designs
Michael Ideas	0	-	1	Textile fabric
Mercy Aamaa Takyi	0	-	1	Industrial designs
Xilaian Eletrical Manufacturing Co. ltd	0	-	1	Industrial designs

ARIPO	13	Industrial designs	48	Industrial designs
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Source: Internal source from Ghana Industrial Property Office (2020)

2.2.3. Copyright and Fashion

Copyright by definition is an aspect of IP that covers the ownership and use of works of literature, music and art. The basic objective of copyright is to enhance our society's wealth of culture and information. The rationale behind copyright can be divided into two key aspects, one looks at the economic driver and the other the author's moral right. The combination of the two promotes the relevance of copyright in developing and enhancing the culture industry. Various components such as drawings, fabric designs, photographs of models, and jewelry can be protected under copyright.

2.2.4. A Review of the Ghanaian Copyright Laws

Reviewing Ghana's Copyright Laws (Copyright Act, 2005). Reviewing the laws of Ghana on copyright under works eligible for copyright, the law clearly states that:

For an author or co-author to be afforded copyright of protection of a work, that work must fall under the works as stated in this Act (a) literary work, (b) artistic work, (c) musical work, (d) sound recording, (e) audio-visual work, (f) choreographic work, (g) derivative work, and (It) computer software or programs.

Works under fashion can be protected under copyright laws as an artistic work. The study of Pandey (2018), states fashion as a form of art is executed by artists while designing fashion apparels.

Aside from this, subsection four of Copyright Act highlights that, originality of a product is based on the independent effort of the author.

Section 2 of the copyright laws of Ghana further clarified that, Copyright shall not extend to ideas, concepts, procedures, methods or other things of a similar nature.

Protection of copyrights deals with original works of authorship and usually protects the original expression of an idea. Copyrights last the duration of the life of the author plus an added 70 years in Ghana although it is life plus 50 years in many jurisdictions (Sikoyo et al, 2006). In Ghana, the copyright office was set up under the auspices of the office of the Attorney General and the Ministry of Justice and the Copyright Act 2005, Act 690 was enacted to protect works such as literary works, artistic works and musical works, audio-visual works, sound recordings, choreographic work, folklore, computer software or programs. The author is protected under this law for his lifetime plus 70 years after death as compared to other jurisdictions. The author enjoys both moral rights, which exist in perpetuity, and economic rights where he gets economic gains. The copyright office is in charge of the implementation and administration of copyrights and related rights in Ghana aside from registering copyright works. Where one's rights are infringed, the case is investigated and addressed by them making efforts to settle such disputes. In the article of Boateng (2011), the copyright thing does not work here: Adinkra and Kente cloth and intellectual property in Ghana, the author argues that the adinkra and kente textiles get their importance from being associated with both the Asante and Ghanaian culture. Yet they are infringed upon by being produced on a large scale by the East Asians without any compensation to the rights owners, as they are not adequately protected under the country's current IP laws in comparison to the Ghanaian musician protected under

copyright who are more secured as they are treated differently under intellectual property law.

2.2.5. Trademark and Fashion Industry

Trademark is a sign made up of a combination of logos, words, images or figures to distinguish the goods and services of one's business from that of others. (World Intellectual Property Office, 2019). Trademark protection lasts indefinitely but with conditions of renewal every 10 years. This is essential to help build brand loyalty to facilitate domestic industry growth and international trade through the required treaties. People more often put their trust in brands. Registering a brand name or logo through trademark helps the owner to prevent others from exploiting its rights. Through trademarks, branding and marketability of a product is improved. Trademark enforcement encourages branding, marketing, and source of the design and ensures identity in the form of logo, or mark, or brand name to be capable of distinguishing one's product from that of other competitors. Today, there is a growing demand for innovative products and services in Ghana that suggest that SMEs in Ghana have to be creative to design new things. Small or up and coming fashion industries do well to develop bonds and brand loyalty with their customers through their brand names to promote their marketability ahead of competitors, and also gain the trust and attention of consumers. The fashion industry in Ghana is ever evolving and has tremendous value on intellectual capital yet little attention is given to protect such intellectual assets. The Trademarks Act of 2004, Act 664, governs trademarks in Ghana. Once designers produce a design, it is necessary for them to consider ways to protect themselves from infringers.

Trademarks give protection to brand names, logos, symbols that are adopted and used by a firm to identify its products in the market. They are aimed at preventing consumers from being confused about the source/origin of the product. Study of Diwadkar (2018) emphasizes that trademarks can either be inside a garment or subtly displayed on small portions such as buttons. Similarly, in purchasing decisions, consumers of fashion designs use detailed characteristics to evaluate a product. Trade dresses be it the total image of the product such as its size, color or combination of colors, shape, texture or the company's sales techniques was introduced by trademark law.

2.2.6 Patent in Fashion Industry

Patents are granted to inventions, which provide technical solutions to technical problems. Patent filed in Ghana is protected under Patent Act, 2003 (Act 657). Inventions are only protected if they meet the patentable criteria. That is being new, involving an inventive step and being industrially applicable. Certain inventions are excluded from patentability in Ghana some of which include; (a) discoveries, scientific theories, mathematical methods, (b) schemes, rules or methods for doing business, (c.) methods of treating of human or animal body by surgery or therapy, as well as diagnostic methods practiced in human or animal body. Others include (d) plants and animals other than microorganisms (e) biological processes for the protection of plants or animals other than non-biological and microbiological processes and (f) plant varieties. Patents can also be used to protect new technology to manufacturer products like textiles, fiber or shoes. These creative things such as the textiles and shoes are manufactured with the help of inventions, which are technologically inclined for these products to be produced and put on the market for commercialization.

A patent on the other hand as compared to trademarks, is protection granted for an invention that provides technical solutions to a technical problem and it provides a limited duration protection usually 20 years to the owner and provides an incentive for disclosure. Any new invention created, innovation be it of technical aspect, fabric or any material, or design requires for a patent protection (Diwadkar, 2018). To qualify for patentability, an invention must be novel, must constitute a non-obvious improvement to previous inventions and must have an industrial application (Sikoyo et al, 2006).

2.2.7 Trade Secret and Fashion

Trade secrets have to do with the protection of confidential and business information, which is generally not within the knowledge of the industry (Sikoyo et al, 2006). Diwadkar (2018) states trade secrets are the core concepts by the use of software tools for fashion design, computer-implemented, software-based business models and management of logistics of the entire value chain.

The prominence of intellectual property (IP) protection in recent times is due largely to the fact that it provides a means through which countries can develop industrially and technologically. As a result, the focus is now on organized in-house research and development activities by firms as against individual research activities. This has led to a strong connection between IPR and trade, economic development and competition especially in respect of developing countries (Sikoyo et al, 2006).

Boldrin and Levine (2008) argue in *Against Intellectual Monopoly*, that IPRs especially patent and copyright are described as intellectual monopoly and as such, they do not encourage innovation. They are also of the view that creators invent innovations simultaneously as others but IPRs give all the reward to the first to obtain a patent and

make him monopolize it. They therefore conclude that competition is suppressed and innovation is hindered because of IPRs protection. Similarly, this is also sided by other researchers such as Leger (2006) who is also of the view that IPRs do not do much to stimulate innovation in countries that are now developing because of the absence of research and development needed for innovation.

Again, they also argued that James Watt, during the sixteenth century, monopolized a patent he obtained for his invention to block other inventors from producing similar inventions. Significantly, after the expiration of Watt's patent, production of engines was enhanced. They further noted that lack of copyright protection during the 1800s permitted English works to be pirated by United States publishers and was more profitable for the authors. Emphasis was also made on the fact that the software industry, which began with practically no IPRs protection, enhanced innovation.

Contrary to what Leger (2006) asserts and Boldrin and Levine (2008), the publication of Lall and Albaladejo titled Indicators of the Relative Importance of IPRs in Developed Countries, argues that there are a lot of benefits that can be obtained from the IP systems exploration. Such that an inventor can get exclusive use of his invention through a strong IP system.

A strong IP system ensures that an invention is protected legally, to enable its enforcement in court and that it provides a source of information to the public and ensures fair trade (Adoma, 2016).

Dissemination of knowledge can be intentional or unintentional (Smeets and Vaal, 2011). The author's further states that the intentional knowledge diffusion termed as "knowledge transfer" is a deliberate transfer of knowledge to local firms to ensure quality in the supply

chain. Whilst unintentional knowledge diffusion termed as “knowledge spill-over” constitutes an externality and a market failure. They argue that a well-defined IPR system corrects the knowledge spillover by providing creators and innovators with sufficient means to appropriate their creations and inventions. Consequently, a reduction in the knowledge spillovers is expected to induce individuals and businesses to increase their resources invested in creative and innovative activities.

Given these developments and in order to rake in the benefits there is the need for an effective IPR system. This requires a clear legal and policy framework on the rights associated with IPs, a supportive infrastructure for the implementation of the laws and policies, which should include trained personnel and resources necessary to get the framework working. For development countries, the challenge is even enormous (Sikoyo et al, 2006). An effective, efficient and well-designed IP system are a main component to promote investment in innovation and growth. This literature review highlights that there are both negatives and positive effects in protecting intellectual property rights.

2.3. Relevance of the Theoretical Framework to the Study

This regime is relevant to this study as institutions such as the World Intellectual Property (WIPO) and the World Trade Organization (WTO) are there to ensure that states adhere to IPR's. In addition, help fight IP infringements globally as well as protecting and enforcing IP systems by improving and strengthening IP systems through trade among nations by promoting the Trade Related Aspects of Intellectual Property Rights (TRIPS). A good national IP policy system if efficiently and effectively put in place in Ghana can help effectively utilize the IPRs to foster creativity and attain economic gains.

The study of (Quartey 2006) shows that the invasion of cheap textile onto the Ghanaian market in addition to the influx of second-hand clothing is a major threat as more Ghanaians have moved their interest to buying cheap stuff. This is so because, as soon as a design becomes famous right after being made, unscrupulous people just come into the market and copy and sell these fake products making the original rights holders lose income drastically and losing their brand values as well. In the fashion industry, due to the large price difference, at least twice cheaper between the original and the fake design product, consumers are tempted to go for the cheaper alternative, which is of low-grade. Because patronage of the cheap fake products is high, to survive in the market, sellers tend to sell more of these designs.

The fashion industry forms the fashion system, which is a part of a larger social and cultural phenomenon. This system is a concept that accepts not only fashion as a business, but also the art and craft aspect of fashion, and not only production aspect but also consumption. The fashion designer is not the only important factor, but so also is the individual consumer who chooses, buys, and wears these clothes. The language and imagery that contribute to how consumers think about fashion is also very important. The fashion system involves all the factors that are involved in the entire process of fashion change. Some factors are natural to fashion, which involves changes for the sake of it being a new trend. Other factors are external having major historical events such as wars, revolutions, as factors. Fashion is a complex social phenomenon, which sometimes involves conflicting motives, such as creating an individual identity and being associated to a group. The fashion industry thrives by being diverse and flexible enough in order for consumer's desire to be fulfilled.

2.4 Intellectual Property Rights Enforcement institutions

Infringements and enforcement of exclusive rights of right-holder is guided by the Industrial designs Act 2003 Act 660, section 22. Where an act is conducted by a person other than the rights holder without any prior consent from the owner, the courts may grant an injunction on the actions of the infringer and award damages or any other remedy the court deems fit to the owner. The infringer may also be liable to pay a fine for his actions or face a jail term of not more than two years or both. Ghana's IPR enforcement agencies include but not limited to the following.

2.4.1. The Registrar General's Department (RGD):

The Registrar General's Department is under the auspices of the Ministry of Justice & Attorney General's Department and they are in charge of business name registration, company registration, partnership registration, Estate administration, and Intellectual property and Marriage registration. RGD is the starting place for IP registration. The Intellectual property office is made up of the Industrial Property Office governed by Act 660 of 2003 for industrial design, Trademarks Act, 2004 (Act 664) for trademarks, Patent Act, 2003 (Act 657) for patents and the Copyright office governed by Copyright Act 2005 (Act 690). The Industrial Property (IP) Office, which is the Ghana Industrial Property Office, is in charge of applications comprising trademarks, industrial designs and patents. Intellectual property crimes can be reported to the office of the RGD, the IP office to be precise who work hand in hand with the CID by providing information about designs that have been infringed upon. If they have been duly filed and registered with the IP office or not. Also information about the third party infringing on the IPR's of the rights-holder. That is to find out if their designs are also registered or not. The IP office provides

evidence of who filed his/ her designs first for any legal actions that comes up because of an infringement.

2.4.2. The Copyright Office:

The copyright office aside registration of works serves as an administrator of copyright and is in charge of implementing and administering copyrights and related rights in Ghana. Where a creator's rights are infringed, they investigate and address them and try to settle such disputes.

2.4.3. The Ghana Police Service:

The Police Service of Ghana also helps investigate and prosecute commercial crimes including those who infringe on the IP rights of others together with the Judiciary. The Commercial Crime unit (CCU) of the Criminal Investigation Department (CID) of the Ghana Police Service are in charge of enforcing IP violations. Some of the enforcement approaches include the following.

- i. Criminal enforcement where upon mostly tip off from the rights-holder or informants, are duly rewarded for the information provided about infringing goods, the commercial criminal unit investigate into IP infringements and seize the infringing goods and also arrest to culprits in possession of the infringing goods.
- ii. A person infringing on the IP rights of a creator may be liable to criminal prosecution of being imprisoned according to the criminal code 1960 to serve as a deterrence to other violators.

A recent case filed in December 2020 by a registered applicant, Princebrim, at the criminal investigation department represents designs infringement on their scarf designs. According to the IP office internal source, a letter was received from the CID office to confirm the validity of the registered designs by Princebrim before any action is taken on the infringers. About six of their registered designs was being pirated and sold on the Ghanaian market with the same designs of Princebrim but under a different name. The rights holders confirmed they were yet to hear from the CID office upon follow up by the researcher. Similarly, GTP has continually had most of its designs imitated by people from the Far East. Though efforts by the government has been put in place through the enforcement agencies, to clamp down these perpetrators, such as setting up anti-piracy task force set up by the Ministry of Trade, the problem is still large. Though these actions have scared a few infringers away, the government's efforts is still not having enough meaningful impact. Some actions taken by this task force include seizure and burning of these pirated designs. Similarly, in the case of Vlisco, despite several efforts to protect and secure its IP assets and designs, cheaper imitations are made available in the Ghanaian a few days after its designs fabrics are launched. In its bid to enforce its rights, it secured a robust IP enforcement regime by hiring private investigators to produce facts about suspected infringements. Also encouraging its local distributors to report any suspected cases of copying (WIPO, 2012).

2.4.4. The Customs Division of Ghana of the Ghana Revenue Authority (Administrative Enforcement):

The owners of infringed goods can seek remedies with the help of the enforcement agencies such as the Customs Excise and Preventive Service (CEPS) who are responsible for border measures so that infringing goods are prevented from entering the country. They confiscate pirated goods, go on rounds unannounced, conduct raids when necessary, and arrest infringers. The customs officers may also arrest any individual who has hold of these goods or who has control over the location of the infringed goods. The fashion industry or industrial design rights-holders may choose to have a one on one discussion with the customs enforcement official for a more effective means of communications concerning their infringed designs. They may also educate them about their designs and possibly provide them with prototypes to train them to be able to differentiate infringing goods from authentic designs.

2.4.5. The High Court of Ghana (Civil Enforcement or Litigation):

The High court of Ghana is in charge of effectively resolving commercial disputes. The courts play a very crucial role in enforcing intellectual property rights by placing an injunction on an action, ordering for the immediate and unexpected seizure of infringing goods as well as awarding remedies to rights holders in the form of damages for their infringed goods.

2.4.6. Ghana Standards Authority:

The Ghana Standards authority operates under the auspices of the Ministry of Trade. They develop the standards by which all products that enter the country must comply with laid down standards.

2.4.7. The Ghana food and drugs board:

The Ghana food and drugs board operates within the Ministry of health and they ensure that products be it food products or drugs being sold on the market are safe and wholesome for consumption by consumers.

2.5 Summary

Fashion, no matter what form fashion takes, it affects the life of everybody. It is not solely a specific population sector, but also, it serves as a way of individuals expressing themselves at a given point in time and place. Industrial design is of high importance to creators of aesthetic designs. The fashion industry through intellectual property tool can reap vast opportunities inherent in IP. This chapter reviewed various literature and adopted the Regime theory, which emphasizes cooperation in trade, human rights and collective security. It also provided a short summary of what fashion is and various IP tools available for fashion designers to protect designs. Finally, it sought to provide a summary of various enforcement agencies and enforcement approaches available to tackle industrial design infringement cases faced by designers in Ghana.

CHAPTER 3 METHODOLOGY

3.1 Introduction

The study under this chapter discusses the research design and methods used, the data collection instruments, the population and sampling technique as well as the analysis of the data collection procedure. To be able to assess the effectiveness of industrial designs rights enforcement for the fashion designers who face a high risk of their designs being copied or stolen, the study used both qualitative and quantitative sources of data to allow for a more understanding of the processes.

The study design, population and sampling techniques, instruments for collecting data, data collection methods, data analysis and the ethical consideration for this research study were provided in this chapter.

3.2. Study Design

The study was based on both qualitative and quantitative approach. The qualitative approach allowed for close interaction and observation with the respondents and collection of descriptive information. This approach provided detailed information about the study. The data gathered from both primary and secondary sources are analyzed. With primary data, a structured questionnaire consisting of both opened and closed ended questions. The questionnaire was characterized into two sections lettered 'A' and 'B' comprising 24 questions. These questionnaires were provided to the respondents to be able to source information from the participants. The participants of the data were those assigned by the Ghana Association of Ghana Apparel Manufacturers in Accra.

3.3. Population and Sampling

The study population involved fashion designers belonging to the Association of Ghana Apparel Manufacturers. According to Dworkin (2012) for grounded studies that use

interviews the adequate number of participants that can enable saturation reached in 25–30 for these reasons, first it allows for rigid scrutiny elements that address the research questions. Secondly, it increases the ability to have enough data to form relationships and variations. Finally, maximizes the chances that negative cases and hypothetical negative cases have been explored in the data.

The sample involved Ghanaian fashion designers in Accra but particularly with reference to the Association of Ghana Apparel Manufacturers designers forming the population of the study. The population that was accessible for the study were 30 independent Ghanaian fashion designers in Accra from the Association of Ghana Apparel Manufacturers in Accra from which the sampling studies involved 25 respondents who will be purposively sampled. These fashion designers must have their businesses actively running for at least a minimum of 5 years.

3.4. Data Collection Instruments

An in-depth interview questionnaire sheet was designed, and the data extraction was done by interviewing owners of the target fashion industries using both open-ended and closed questions. Interviews were conducted to collect relevant data for questions asked to get immediate responses from the respondents and to get in-depth information relevant to the study. The primary data was collected through structured questionnaires. The questionnaires served as a guide for the interviews. The interview questions were also guided by a question guide and this checklist; if the respondents have a registered fashion design business and have been in working for at least a minimum of five years, their level of education, and what challenges they face and what strategies will best help to improve their standards.

3.5. Sampling Technique

Convenience sampling technique was used due to limitation in time and cost of carrying out the research. (Frey, 2018), defines this form of sampling as the type that uses availability and readiness of a respondent in a sample. According to Martínez-Mesa et al, (2016) with this type of sampling the data collection ends when the saturation or time limit is attained. Under this form of sampling, the researcher has the flexibility to choose (Dworkin, 2012). Here, the people are chosen for a particular reason that will produce most information about the investigated topic.

3.6.Data Collection Procedure

A request for data letter by the institution issued to the Association of Ghana Apparel Manufacturers was used to solicit data from them. The letters requesting for data stated specifically the data needed in order to conduct and analyze the effectiveness of industrial designs rights enforcement within the fashion industry. The participants for this study were taken from fashion designers who are members of the Association of Ghana Apparel Manufacturers in Accra. The consent of the respondents was requested before the questionnaires administered to them. After their consent was obtained, the reason for the study was explained to them before they were given the questionnaires to answer. The various fashion designers were requested to provide data on how effective they think the support government gives fashion designers when it comes industrial designs issues or infringements.

The data collection procedures involved a phone call and email delivery of the research approval letter from Africa University (AU) to the Association. This request was followed up by phone calls until an approval was granted through the phone call. A google form containing the questionnaires were then sent to the various fashion designers to solicit for

information relevant to the study. The source of data for this study involved designing quantitative questionnaires as well as qualitative source. This was to induce the level of awareness from some fashion industries in relation to Industrial designs rights enforcement. Secondary data were obtained from various relevant publications such as website of WIPO.

With the purpose of capturing adequate and relevant data for conducting this study, interviews were conducted on the participants and questionnaires were also administered. This was to ensure the participants fully understood and respond with relevant answers in order to access how often industrial designs was used by fashion designers to protect their creations and how effective they believed enforcement agencies ensured fashion designers are fully protected against infringements as well as how effective government supports to them are in infringement issues. This motivated the study.

3.7. Analysis and Organization of Data

The quantitative and qualitative data collected were analyzed to address the objectives of the research in order to put the data collected in an organized form. A further examination and break down of the raw data in the qualitative data collected were arranged into many ideas and concepts to draw the link between the findings and the research questions posed. Interpretation of the primary data (questionnaires) and secondary data obtained through credible publications and other study objectives were then done to draw the conclusions and recommendations.

3.8. Ethical Consideration

Before commencement of the study, and in order to ensure adherence to the ethical consideration, the researcher received an approval letter from the Africa University Research and Ethics Committee (AUREC) of Africa University in Mutare, Zimbabwe.

The informed consent form from the AUREC together with the AUREC approval letter were addressed to the relevant Association. For this research, the researcher ensured confidentiality of interviewees; no names were published unless permission was explicitly sought and granted. The researcher guaranteed that prior informed consent was obtained from all interviewees for participating in this study. Participation in this research was voluntary and the researcher ensured that withdrawal from participating in the research was allowed at any time. The information collected in this research was used only for academic purposes for assessing the effectiveness of Industrial design rights enforcement on the Ghanaian fashion industry. The researcher was impartial and consistent in observations and analysis and did not deliberately draw incorrect conclusions. Anonymity of participants was guaranteed. Guidelines of the AUREC were adhered to in order to ensure and maintain high standards of ethical consideration throughout the study.

3.9.Summary

The methodology that was used to ascertain the relevant data for this study is presented in this chapter. It also lays down the study design, population and sampling techniques, instruments for collecting data, data collection methods, data analysis and the ethical consideration for this research study.

CHAPTER 4 DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1. Introduction

Today, there is a growing demand for innovative products and services from creations in Ghana that suggest that fashion industries have to be creative. These new designs are industrial designs creations, which are considered as fashion and as such must be protected by laws of the country to grant the creators exclusive rights to use these creations and exploit them for monetary gains. The laws protect these creations at the same time promoting creativity, encouraging more innovations from these creators and growing the economy. Small or up and coming fashion industries do well to develop bonds and brand loyalty with their customers through their distinguishable and distinctive brand names and services. For many consumers, fashion determines their purchasing power and their demand for a specific type of textile for a particular reason. With the fast-moving pace of technology, textiles are not being spared, as designers need to be creative to produce designs with every passing season.

A strong and effective industrial design enforcement requires an approach, which is strategically positioned from highly experienced persons. This study sought to access the effectiveness of industrial designs right enforcement on the Ghanaian fashion industry. This chapter presents the findings, and discussion of the results from the data collected from 25 questionnaires. The study specifically aimed at accessing the effectiveness of industrial design rights enforcement on the Ghanaian fashion industry. (i) To understand fashion designers current knowledge on industrial designs to protect their designs. (ii) To analyze their appreciation level on the effectiveness of enforcement of their rights by enforcement agencies such as the CID and other agencies in protecting their designs. (iii)

To educate and sensitize them on the importance and effectiveness of protecting their designs. This study is guided by using the regime theory as its framework.

Both open-ended and closed ended structure of questions were used in the questionnaire. In the data collection process, it involved giving out of questionnaires together with an application for data which had specific questions to be able to source credible information required to achieve the research objectives.

In ascertaining the demographic profile of the individual fashion designers for the study, the age group, gender, level of education, how their fashion businesses were financed were required for the analysis.

4.2. Data Presentation and analysis

This section provides a presentation of the data that was requested from the fashion designers using the methodology and data collection instruments provided in the study. A presentation and analysis of the data are done using figures and narrations to provide the answers that were asked in the research questions.

Section A

4.2.1 Age Distribution

The respondent's basic profile such as the age group within which they fall was selected in the study.

The figure below illustrates the respondents ages.

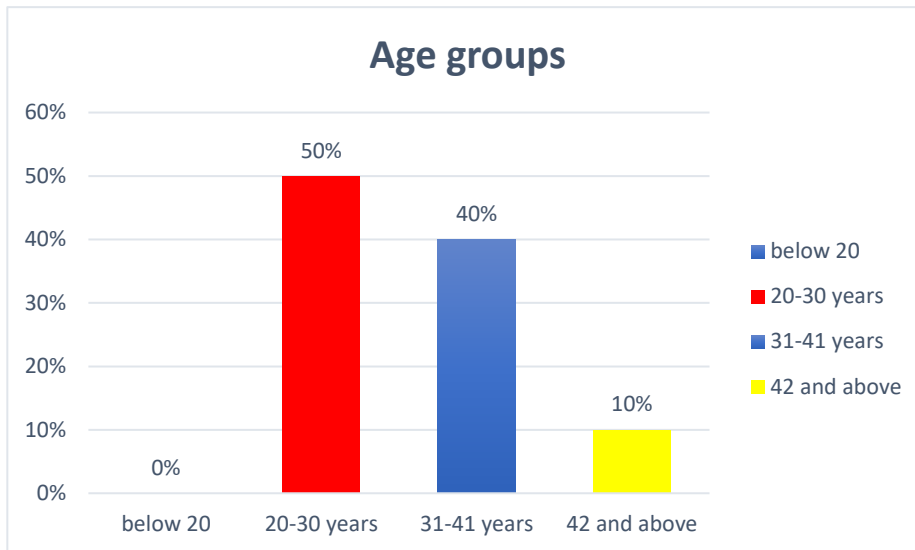


Figure 4.0 – Age groups

As depicted in the figure above, a higher number of the respondents from the data collected were above 31 years making a percentage of 50%.

4.2.2 Gender Distribution

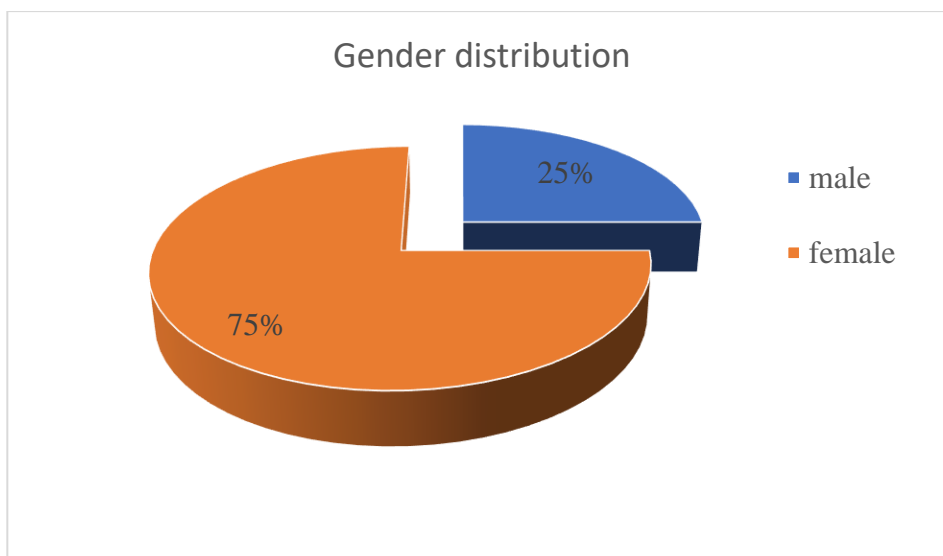


Figure 4.1- Gender distribution of respondents

As the chart in figure 4.1 depicts above, 75% of the respondents were females whilst the remaining 25% were males

4.2.3 Academic Qualification

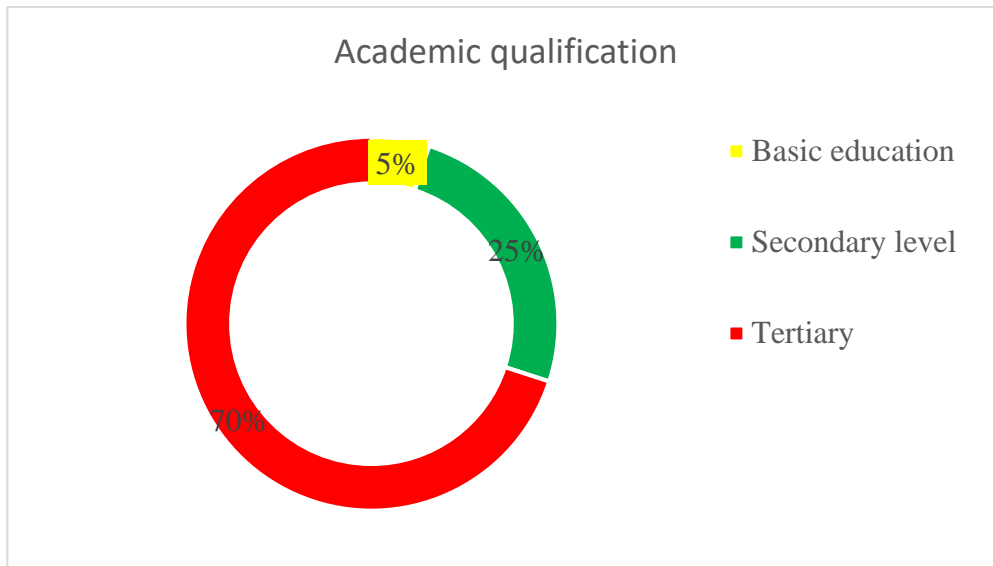


Figure 4.2 – Academic qualification

As illustrated in the figure 4.3 above, 70% of the respondents had a degree, 25% had a secondary level qualification whilst the remaining 5% had basic education.

4.2.4 Responses regarding having a registered business at Registrar General's Department

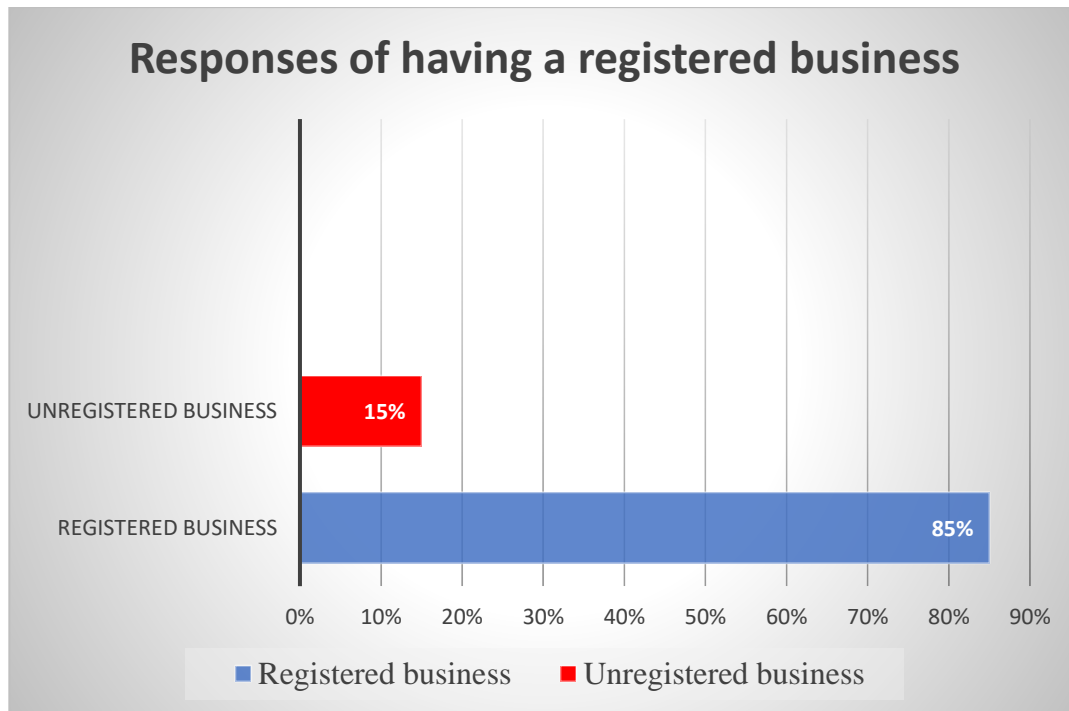


Figure 4.3 – Registered business or unregistered

Majority of the respondents comprising 85% had registered their business names at the Registrar General's Department whereas 15% of had not registered theirs. In answering how long they have been in business, 60% of the respondents have been running their businesses for 5 years and above and 40% have been operating below 5 years.

In addition, in finding out how they financed their business, responses received ranged between personal savings, usage of salary from other businesses, revenue generated from sewing for clients, and others through returns from investments. This is presented in graphically below.

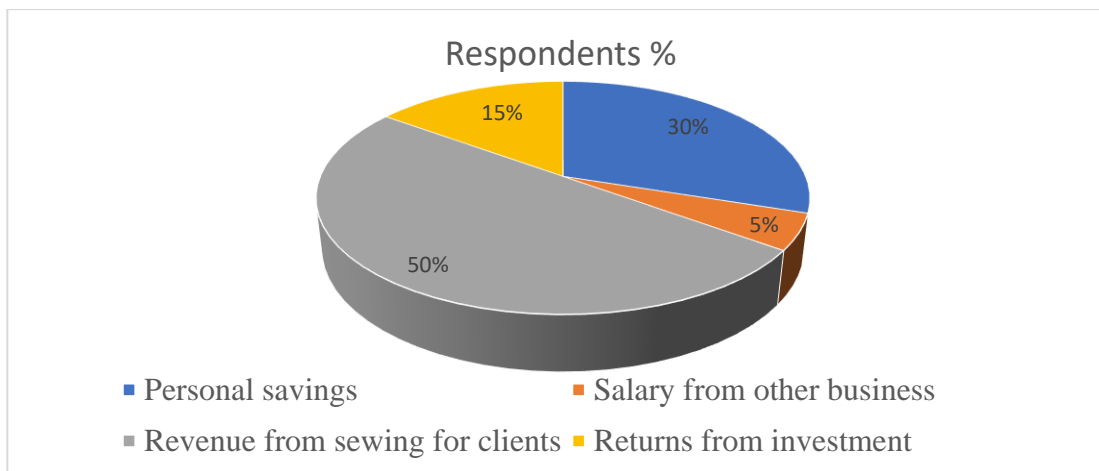


Figure 4.4 – How business is financed

4.2.5 Level of awareness of IP

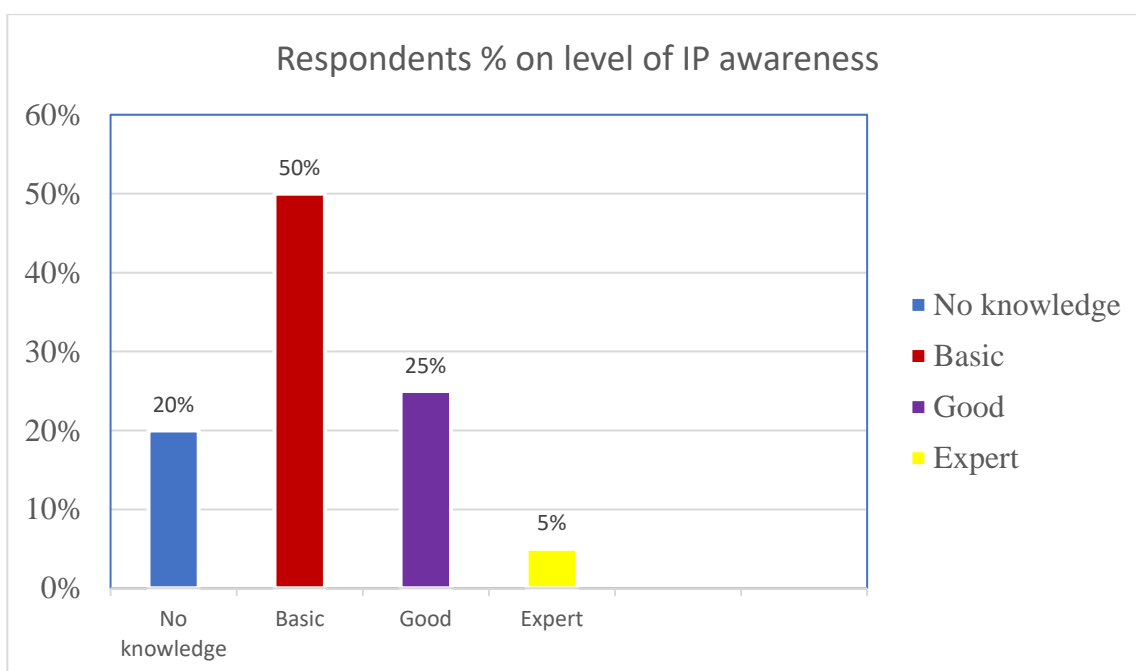


Figure 4.5 – Level of IP awareness

Out of a size of 25 respondents, 20 survey respondents were received. Majority of the respondents comprising 50% had basic knowledge in Intellectual Property, 25% had a

considerably good knowledge in IP and 5% claimed they had expert knowledge in IP. The other 20% responded not having any knowledge in IP.

4.2.6 Responses regarding Industrial Designs

In a bid to ascertain how well Industrial Designs protection is well understood and used by fashion designers in Ghana, they had the option to answer the following questions:

- a. *They knew what Industrial Designs protection was?* They were given the options Yes or No to tick appropriately.

In response, 80% responded in the affirmative by selecting yes. The remaining 20% responded they had no idea about it. This is illustrated in figure 4.6 below.

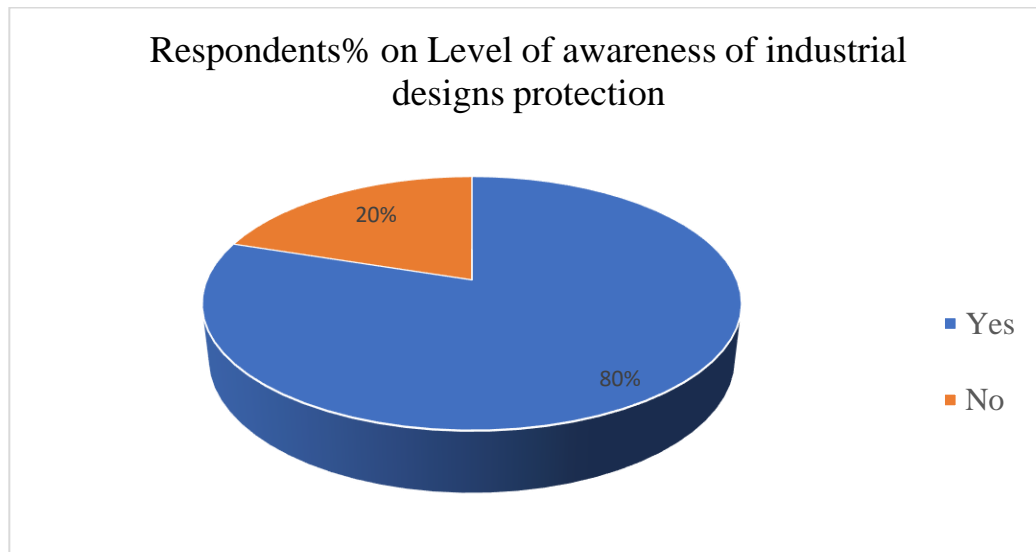


Figure 4.6- Level of awareness of industrial designs.

- b. *What their knowledge about protecting their designs or textiles at the industrial property office?*

Respondents when asked to provide their level of knowledge about protecting their designs or textiles at the Industrial property office, 50% responded as having basic knowledge in it. 40% of the respondents responded as having no knowledge and 10% responded as having good knowledge about protecting designs or textiles at the industrial property office.

c. If their designs are protected under industrial design laws in Ghana? Yes or No

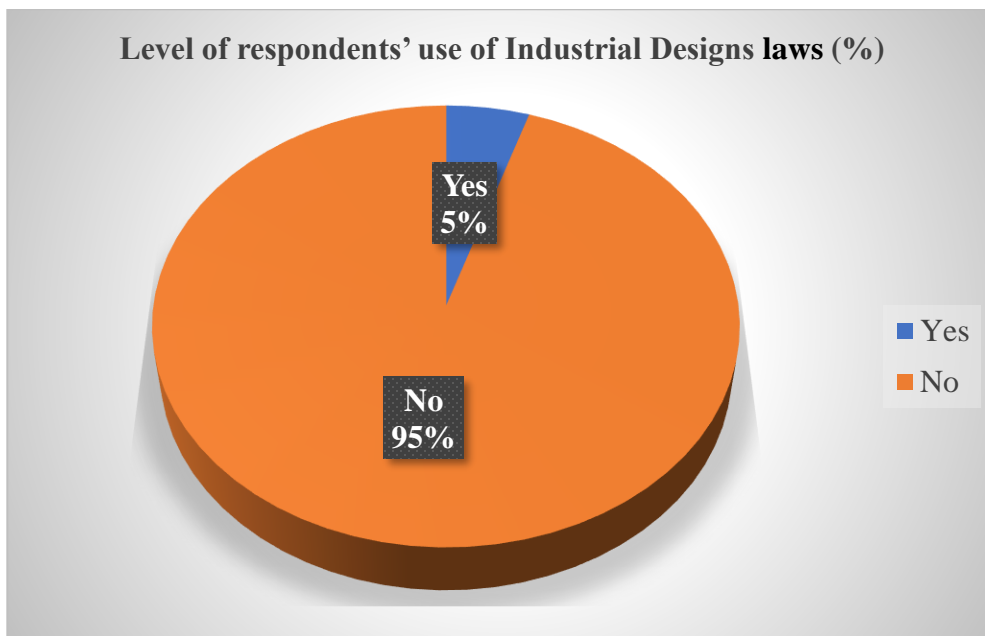


Figure 4.7 – Usage of IP laws in protecting designs

The respondents at this section were asked if they protected their designs under industrial designs law considering their knowledge in IP and in industrial designs. Most of the respondents comprising 95% said their designs or textiles were not registered under industrial designs. The other 5% said they have their designs or textiles protected.

d. If yes, do you believe in the effectiveness of your design's protection under industrial designs laws?

80% of the respondents answered No to this question. That is they did not believe in the effectiveness of industrial designs laws. Whereas the rest of the 20% respondents answered yes.

e. Are you aware of actions taken on goods and culprit who bring and sell the infringing goods? Yes or No.

When asked if they had come across any infringing design, majority of them comprising 70% answered No to this question. 20% claimed they had come across designs being infringed and all of them sited an imitated textile fabric in the Ghanaian market as a typical example of an infringing good. They further stated arrest of culprits who bring the infringing goods. 10% did not provide an answer to this question.

f. Are you aware of actions taken by the enforcement agencies to help rights holders in protecting their designs? Yes or No

Regarding actions taken by enforcement agencies to help rights holders in protecting their designs, a larger number of the respondents comprising 70% answered No to this question. 20% of the respondents answered yes and quoted responses such as seizure of goods and destroying of goods as some actions taken. 10% of the respondents did not provide an answer to this question.

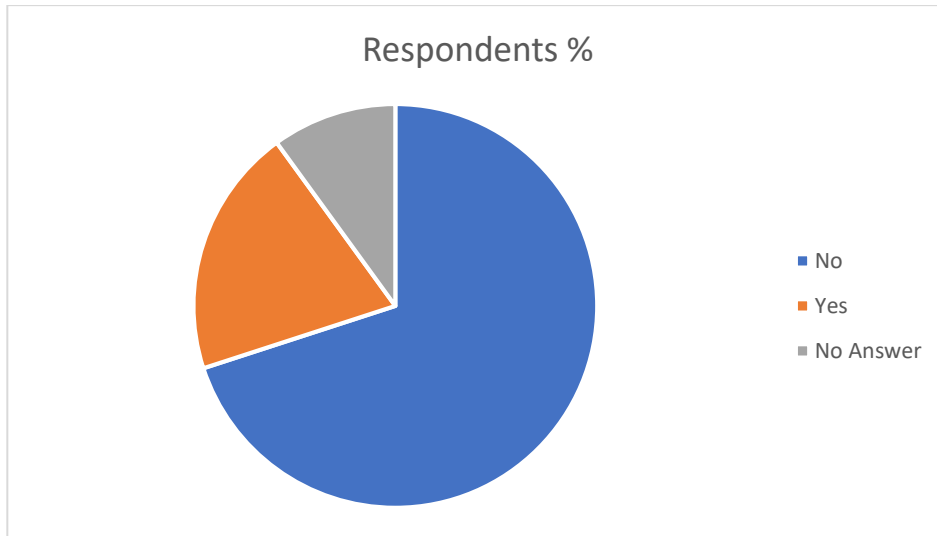


Figure 4.8 Respondents awareness on actions taken by enforcement agencies to help rights holders in protecting their designs

g. Are you as a fashion designer encouraged through the enforcement agencies such as the CID and the Registrar General's Department to protect your designs in Ghana? Yes or No

In an effort to ascertain how many fashion designers are encouraged to protect their designs, majority of them comprising 80% responded No to this question and the rest of the 20% responded in the affirmative. This is illustrated in the figure 4.9 below

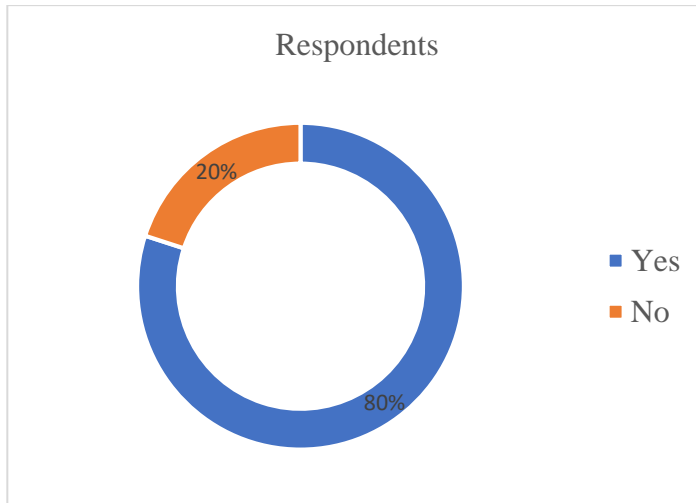


Figure 4.9 – Respondents encouraged protecting their designs

h. Do you believe registering your business name only at the Registrar General's Department is enough protection for your fashion business?

95% of respondents responded in the affirmative in answering this question. Meaning they, believed registering their fashion business name with RGD was enough protection for them. 5% responded No to this question. This is illustrated below.

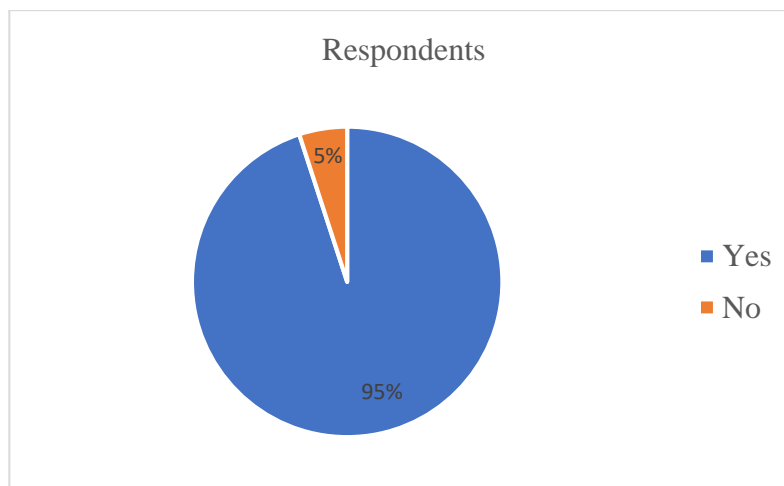


Figure 4.10- Respondents who believe business name is enough protection or not

Section B

The fashion designers were asked in section B of the questionnaire the following questions.

a. Do you think industrial designs protection is often used by Ghanaian fashion designers to protect their designs? Please explain why.

A summary of quoted responses from the few respondents who answered this question ranged between the following.

- 90% of the respondents answered No to this question, and gave the reason as lack of knowledge hampering the use of industrial designs to protect designs.
- 10% answered it is used to some extent but mostly by big industry players in the fashion industry.

b. How effective do you think enforcement agencies such as the CID and other agencies ensure designs of fashion designers are protected from being copied or used without owners' consent?

Majority of the respondents felt the enforcement mechanisms are not effective enough and are sometimes expensive when the case has to go to court. Others stated they had no idea on this question. Others left it unanswered.

c. Is the support the government gives fashion designers when it comes to industrial design issues or infringements effective?

Most of the respondents comprising 80 % stated they had no idea in answering this question. Others making up 15% stated government support was not effective enough. The other 5% left this question blank.

4.3 Discussion and Interpretation

With reference to the results of the research on the effectiveness of industrial designs rights on the fashion industry, this chapter presents the data analysis and presentation with 20 respondents. The result gathered provided the proof that Industrial design protection has not been well explored by the fashion industry in protecting their designs or creations. It is also evident that lack of awareness and ignorance of the design laws also contribute to infringement of designs though industrial design protection is there to encourage innovation and the creation of new unique aesthetic designs. Though the basic social objectives of industrial design protection exists, it should also be noted that the exclusive rights given comes with its limitations and exceptions. Industrial designs rights in the fashion industry can be costly for the industry especially when they do not have the legal and monetary tools to carry out enforcement. In addition, a major issue of design rights enforcement is the lack of adequate knowledge of the design laws by the police hence makes it difficult to administer and take on enforcement cases. It was also gathered that majority of the respondents preferred to register their business names only as they believed it was enough protection for them.

CHAPTER 5 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the summary, conclusion and recommendations of the research with reference to the objectives and findings obtained. The purpose of this study was to ascertain the effectiveness of industrial designs rights enforcement on the Ghanaian fashion industry.

5.2 Summary

Industrial designs rights is of great importance for development of the fashion designers in the fashion industry as well as economic development. The study provided a mechanism to explore the level of industrial design awareness and use by the fashion designers in Ghana. The total sample size was 25 respondents. Only 20 respondents were available for the study.

Ghana is a developing country and it was established through the research that, enforcement mechanisms to tackle Industrial designs rights violations are not that effective though efforts have been put in place by Government. Efforts are gradually picking up to help motivate for more creations and to compensate affected designers who have their designs infringed upon. Lack of awareness and ignorance of the design laws also contribute to infringement of designs though industrial design protection is there to encourage innovation and the creation of new unique aesthetic designs.

The research, in order to obtain data, used both quantitative and qualitative analysis as its methodology for collecting data. With the use of illustrative figures, the data was interpreted.

5.3. Conclusions

According to the study, the results showed how low industrial designs protection is used by Ghanaian fashion designers to protect their designs. It also showed enforcement of these rights are low as more infringing designs keep flooding the local market. A general lack of reliance on and awareness of IP particularly industrial designs within the Ghanaian fashion industry is prevalent. Most of these designers do not believe in the effectiveness of designs protection under industrial designs law in Ghana. Government support to fashion designers when it comes to infringements is also not effective. As a result, most of these designers are not encouraged to protect their designs under the industrial designs law but prefer registering their business names only. A higher degree of people believed registering their business with Registrar General's department alone was enough protection for their fashion businesses.

Thus, there is an urgent need for fashion designers to put more importance and attention to their lack of knowledge in industrial designs. The area of Industrial designs rights enforcement on the performance of the fashion industry remains underdeveloped considering its impact on the industry and the economy of Ghana. The taskforce in Ghana needs to be empowered and inspired to do their work more diligently, that is efficiently and effectively to prevent the influx of pirated textiles.

Although it is difficult to enforce Industrial designs due to its cost and massive nature of the processes involved in getting these creations registered, it is always beneficial for fashion industries to adopt industrial designs registration to protect their designs. This aide to mitigate the imitation of some of the most innovative creations and rather reap its benefits from the vast amount of money and time invested in creation of designs. The

main goal of new and existing fashion industries to become and remain competitive. This is through a more effective use of the industrial design system can only be attained if all the relevant actors in the public make sustained efforts to bridge the gap in awareness of , access to and use of the industrial design system by designers and IP as a whole.

The outcome of the study indicated that even if designers protect their designs, the percentage in difficulty to enforce is always high even though domestic creativity and innovation can be enhanced through a robust industrial design protection system. Most fashion industries lack the financial capability and awareness on protection of their designs, which is critical to growing their businesses.

The Ghanaian fashion industry is on the rise but most fashion designers lack the financial capability and awareness of IP tools used for the protection of their designs which is critical to growing their businesses due to their limited knowledge and the lack of clarity about its relevance to their businesses. It is vital for fashion enterprises to obtain sound legal advice at an early stage in order to appropriately protect their creativity through IP rights, and be able to realize their commercial potential

The invasion of cheap textile onto the Ghanaian market in addition to the influx of second-hand clothing is a major threat as more Ghanaians have moved their interest to buying cheap stuff. This is so because, as soon as a design becomes famous right after being made, unscrupulous people just come into the market and copy and sell these fake products making the original rights holders lose income drastically and losing their brand values as well. These infringers copy their designs, produced them and brought them to commercialize on the Ghanaian market. In the fashion industry, due to the large price

difference, at least twice cheaper between the original and the fake design product, consumers are tempted to go for the cheaper alternative, which is of low-grade. Because patronage of the cheap fake products is high, to survive in the market, sellers tend to sell more of these designs.

It is imperative for Government at this point to establish and determine ways of creating and improving more awareness on the use of industrial designs in protecting designs by fashion industries. Also stressing on the fact that registering a business name at RGD is not enough protection for their designs as that only protects their business names. A more robust enforcement mechanism should be established. It is vital for fashion enterprises to obtain sound legal advice at an early stage in order to appropriately protect their creativity through IP rights, and be able to realize their commercial potential. Fashion SMEs need to develop an IP strategy and incorporate it into their overall business strategy.

The fashion sector of Ghana in most cases and business environments has access to expertise, innovations and resources that can contribute to nation building. Ghana has a vibrant court system that can be attracted to aid implementing and enforcing IP laws. Yet that is not the current situation.

5.4. Implications

The low effectiveness of industrial designs rights enforcement was confirmed through this research conducted which aimed at ascertaining how effective these designs rights enforcement was on the fashion industry in Ghana. The study provided the evidence that there was a low patronage on using industrial designs to protect creations. It is however possible for the government of Ghana to put strategies in place to address this challenge of low effectiveness of designs rights enforcement.

Fashion industries could have the tendency to enjoy the fruits of their labor through designs rights protection. The government could also derive economic benefits through a robust, efficient and effective industrial design enforcement strategy.

5.5. Recommendations

In view of the aforementioned findings, the following recommendations are made for consideration:

From the findings gathered, the continuous

1. A coordinated and effective industrial design enforcement strategy to protect designs rights infringements is required.
2. Through wide strategy of registering industrial designs monitoring and enforcement, losses may be recovered.
3. Educating and encouraging the fashion designers on the importance of protecting creations under IP particularly through industrial designs protection.

Though the government of Ghana has over the years attempted to develop and improve the performance of the fashion industry which is a good source of employment, particularly for women through the African Growth and Opportunity Act (AGOA), and aims at improving performance of the textile and apparel, energy-related products, agricultural products, footwear, and minerals and metals through trade. Ghanaweb, (2018), the performance of the fashion industry is still low. The government of Ghana influences the clothing and textile industry significantly. The government could also restructure policies aimed at improving the textile industry through increment of employment opportunities, enforcement mechanisms, expansion and diversification of the economy and promoting both domestic and foreign investment.

5.6 Suggestions for Further Research

The research provides discussion on accessing the effectiveness of industrial designs rights enforcement on the Ghanaian fashion designer. A repeat of this research should point to more participants being interviewed on a face-to-face interview.

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APPENDICES

Appendix 1: Informed Consent Guide



COLLEGE OF BUSINESS, PEACE, LEADERSHIP AND GOVERNANCE

INFORMED CONSENT GUIDE

My name is Leticia Abia Degbe, a final year Master's in Intellectual Property student from African University, Mutare. I am carrying out a study on "Effectiveness of industrial design rights enforcement on the Ghanaian fashion industry." I am kindly asking you to participate in this study by answering and filling in this questionnaire. The purpose of the study is to assess how effective industrial design rights enforcement is on the Ghanaian fashion industry. That is to examine how often industrial designs protection is used by Ghanaian fashion designers to protect their designs creations, to assess the effectiveness of industrial designs rights protection has on the performance of the fashion designers and to assess the effectiveness of the potential support the government gives fashion designers when it comes to industrial design issues or infringements.

You were selected for the study because you are a fashion designer in Accra and a member of the Association of Ghana Apparel Manufacturers. If you decide to participate, you will need approximately 20 minutes of your time to discuss and fill out and answer the questionnaire. All responses given will be subject to utmost confidentiality. The information will not contain any mention of your name and there are no anticipated risks

Appendix 2: AUREC Approval Letter



AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE (AUREC)

P.O. Box 1320 Mutare, Zimbabwe, Off Nyanga Road, Old Mutare-Tel (+263-20) 60075/60026/61611 Fax (+263-20) 61785 website: www.africau.edu

Ref: AU1898/21

11 February, 2021

Leticia Aba DEGBE
C/O CBPLG
Africa University
Box 1320
Mutare

RE: EFFECTIVENESS OF INDUSTRIAL DESIGNS RIGHTS ENFORCEMENT ON THE GHANAIAN FASHION INDUSTRY

Thank you for the above titled proposal that you submitted to the Africa University Research Ethics Committee for review. Please be advised that AUREC has reviewed and approved your application to conduct the above research.

The approval is based on the following.

- a) Research proposal
- b) Data collection instruments
- c) Informed consent guide
- **APPROVAL NUMBER** AUREC1898/21
This number should be used on all correspondences, consent forms, and appropriate documents.
- **AUREC MEETING DATE** NA
- **APPROVAL DATE** February 11, 2021
- **EXPIRATION DATE** February 11, 2022
- **TYPE OF MEETING** Expedited
After the expiration date this research may only continue upon renewal. For purposes of renewal, a progress report on a standard AUREC form should be submitted a month before expiration date.
- **SERIOUS ADVERSE EVENTS** All serious problems having to do with subject safety must be reported to AUREC within 3 working days on standard AUREC form.
- **MODIFICATIONS** Prior AUREC approval is required before implementing any changes in the proposal (including changes in the consent documents)
- **TERMINATION OF STUDY** Upon termination of the study a report has to be submitted to AUREC.



Yours Faithfully

MARY CHINZOU – A/AUREC ADMINISTRATOR/CHAIRPERSON, AFRICA UNIVERSITY RESEARCH ETHICS COMMITTEE

Appendix 3: Questionnaire for fashion designers belonging to the Association of Ghana Apparel Manufacturers

My name is Leticia Ablā Degbe, a final year Master’s in Intellectual Property student from African University, Mutare. I am carrying out a study on “Effectiveness of industrial design rights enforcement on the Ghanaian fashion industry”. The research work, which is purely an academic exercise, is in partial fulfilment of my study. The purpose of the study is to assess how effective industrial design rights enforcement is on the Ghanaian fashion industry. The outcome of the study will be used to educate and sensitize stakeholders and fashion designers in Ghana in order to help boot the country’s economy in the end.

INSTRUCTIONS FOR COMPLETING THE QUESTIONNAIRE

1. Any information obtained through this questionnaire will be treated with strict confidentiality and used only for the purpose of research.
2. If you decide to participate, you should take a minimum of 10 minutes to complete this questionnaire.
3. Please tick or write the most appropriate response.

SECTION A

Please tick where appropriate

1. Age group;
☐ below 20
☐ 20-30
☐ 31- 41
☐ 42 and above

2. Gender;

☐ Male

☐ Female

3. Level of education;

☐ Basic education

☐ Secondary education

☐ Tertiary

4. Do you own a small-scale fashion business?

☐ Yes

☐ No

5. Is it registered with the Registrar General's Department?

☐ Yes

☐ No

6. For how long have you been in business

☐ Below 5 years

☐ 5 years and above

7. How do you finance your business?

.....
.....
.....

8. What is your level of awareness of Intellectual Property Rights protection in Ghana?

☐ No knowledge

☐ Good Knowledge

☐ Basic knowledge

☐ Expert knowledge

9. Do you know what Industrial Design protection is?

Yes []

No []

10. What is your knowledge about protecting your designs or textiles at the Industrial property office?

[] No knowledge [] Good Knowledge

[] Basic knowledge [] Expert knowledge

11. On a scale of one to five how will you describe your knowledge of Industrial Design protection in Ghana?

[] Good

[] not very good

[] no idea

12. Are your designs protected under Industrial Design laws in Ghana?

[] Yes

[] No

13. If yes, do you believe in the effectiveness of your design's protection under industrial designs?

[] Yes

[] No

14. Have you come across any designs being infringed?

[] Yes

[] No

15. If yes, can you identify such infringing goods?

..... if No please tick []

16. Are you aware of actions taken on goods and the culprits who bring and sell these infringing goods?

☐ Yes

☐ No

17. If you ticked YES in the above question, can you specify which action was taken on these infringing goods and culprits?

.....

18. Are you aware of actions taken on culprits by the enforcement agencies to help rights holders in protecting their designs?

☐ Yes

☐ No

19. If you ticked Yes in question 18 please state what actions you know are taken on these

culprits.....

.....

20. Are you as a fashion designer encouraged through the enforcement agencies such as the CID and the Registrar General's Department to protect your designs in Ghana?

☐ Yes

☐ No

21. Do you believe registering your business name only at the Registrar General's Department is enough protection for your fashion business?

☐ Yes

☐ No

SECTION B

1. Do you think industrial designs protection is often used by Ghanaian fashion designers to protect their designs? Please explain why.

.....

.....

.....

.....

2. How effective do you think enforcement agencies such as the CID and other agencies ensure designs of fashion designers are protected from being copied or used without owners' consent?

.....

.....

.....

3. Is the support the government gives fashion designers when it comes to industrial design issues or infringements effective?

.....

.....

Appendix 4: Fabric map of Africa (Kora, 2020)



Appendix 5: Enforcement of fake designs by government task force in Ghana.



Fig. 2 Daily Guide (Abbey, 2010)



Fig. 3 Daily Graphic (Ocloo, 2010)

