

What a Heel!

By Reg P. Wydeven
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When I was in high school, every Wednesday my buddies and I wore our Sport Jeans. Sport Jeans were a distinct style of dungarees: they had an elastic waistband and stripes of a different colored denim on the outside of each pant leg and a wide stripe around the left thigh. While we thought they were cool, I'm sure we were the only ones.

Sport Jeans were unique and I never saw any other jeans quite like them. There was probably a reason for that, though. But copying clothing is slightly easier than copying other cultural things like art, music, film or novels. At least Ivanka Trump is hoping so.

The daughter of Presidential hopeful Donald Trump is being sued by shoe company Aquazzura in federal court in Manhattan for copying one of their shoe designs. The company is seeking monetary damages and also an injunction to prevent Trump from selling her design.

Aquazzura claims that Trump plagiarized their Wild Thing shoe when she created her Hettie Shoe, which is an exact replica. Both sandals have a bright red heel, an ankle strap, tassel, and a fuzzy band. Celebrities and fashionistas have been seen sporting the Wild Thing and Aquazzura's lawsuit alleges that Trump wanted to piggyback off their success without putting in the "hard creative work." The Wild Thing sells for \$785, while the Hettie shoe retails for a mere \$145.

Like her famous father, Ivanka is no stranger to legal battles. In 2012, she was sued for allegedly copying two sandal designs made by Mystique footwear.

High fashion is a different world than the one most people live in. That's why it's no surprise that laws about fashion are different as well. U.S. copyright laws do not extend protection for fashion designers. While certain elements of clothing can be protected, such as graphics or prints, clothes themselves cannot be copyrighted. Despite pleas by designers for copyright protection, legislators have countered saying clothing is functional and can't be protected. For example, Hanes can't seek an injunction against Fruit of the Loom for making boxer shorts.

Because of this lack of protection, companies like H&M and Forever 21 are able to flourish by selling less expensive versions of high-end fashions. In response to the suit, Marc Fischer, the company that manufactures Trump's designs, pointed this out by asserting that there are several other Wild Thing copycats on the market from discount companies like Steve Madden. Marc Fisher asserts that Aquazzura can't copyright red ankle straps and prevent other companies from using them.

Matthew Burris, CEO of Marc Fischer, contends that Aquazzura's lawsuit is "baseless" and intended to generate publicity. "The shoe in question is representative of a trending fashion style, is not subject to intellectual property law protection and there are similar styles made by several major brands," Burris explained. "The lawsuit is without merit and we will vigorously defend ourselves against the claim."

Aquazzura doesn't think that a Trump victory is a shoe-in. The Italian company, founded by Colombian-born Edgardo Osorio, is keeping a close eye on a case the U.S. Supreme Court agreed to hear last month about whether or not certain elements in a cheerleader uniform, such as colors and designs, can be protected.

Trump is hoping to prevail, for if an injunction is granted, she will be without a sole. Well, I guess she could always go into politics.

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