

CALIFORNIA Apparel News

THE VOICE OF THE INDUSTRY FOR 65 YEARS

\$3.50 VOLUME 65, NUMBER 12 MAR. 13-19, 2009

NEWS

Independent Designers Strive to Build Brands, Fend Off Imitators

By Erin Barajas *Manufacturing Editor*

Imitation may be the sincerest form of flattery, but perhaps not in the fashion business, where designers strive to strike the right balance between innovation and salability, while building—and protecting—their brands.

“Being a fresh face in fashion can leave you wide open,” said designer Mic Serfontaine.

Serfontaine is a contemporary denim maker who spent several years trying to find a production company in Los Angeles to make his one-of-a-kind denim designs. Eventually he hired and personally trained a group of apparel makers to produce his jeans, which soon adopted the name “Easy Rider.”

For a while, Serfontaine’s individualist instinct earned him a name, but he said he soon began to notice similar styles popping up all around town.

“It was really frustrating,” Serfontaine explained. “A lot of designers in Los Angeles design because they are compelled by their influences, like an artist. But then there’s the other side of the industry that is in it strictly for business reasons and they aren’t the least bit interested in establishing the design credo.”

Inspiration Vs. Imitation

Attorney Crystal Zarpas, a partner at **Mann & Zarpas** law firm in Woodland Hills, Calif., said the task of pinpointing imitators is a difficult one.

“Once fashion hits the runway it’s fair game for everyone,” said Zarpas. “Most designers know before they get into the business that there’s really nothing you can do to protect a particular style. A blouse is a blouse is a blouse.”

Plus, designers and manufacturers are likely to look for inspiration in many of the same places: couture runways, celebrity events, music videos and retail stores.

Designer Marc Vachon is both manufacturer and retailer, with a line of clubwear for men and women, which he sells out of a boutique on Melrose Avenue



in Los Angeles. Vachon said that at first he was “a little uncomfortable” when shoppers would ask specific questions about his denim treatments.

“I thought it was just a crazy coincidence when I produced something and then other people were doing it too,” Vachon said. “There are people who are doing similar styles with similar washes, but they’re using cheaper fabric.”

The designer’s response is to keep the collection unique with new details and special wash treatments or finding a new place to stick his logo.

“I know that there will always be people who are going to borrow ideas, so I try to find ways to put a twist on everything I do,” he said.

Even though some of his previous design concepts have long been infused into the fashion mix, Vachon said the long road to brand recognition is finally beginning to pay off.

“It doesn’t bother me as much now that I’m finally starting to get credit for my fashions,” he said.

Vachon, who will launch a ready-to-wear collection to East Coast buyers at Manhattan’s **Hotel Venus** early next year, is currently preparing to debut a line of stretch corduroy for men.

“I haven’t seen anybody doing stretch cords for men, so maybe I will be one of the first to do that,” he said.

Both Serfontaine and Vachon said they recently discovered there are no formal laws protecting de-

signers’ styles.

“Whether something is protected in most circumstances depends on individual cases,” Zarpas said, noting that there are cases that have found in favor of the designer. Los Angeles-based designer Monah Li successfully received a settlement earlier this year from another designer who allegedly knocked off several pieces in Li’s collection. Li, who gained recognition for her feminine, deconstructed designs, shuttered her line last year to open a Los Angeles design studio for San Francisco-based retailer **Bebe**.

“Designers shouldn’t be discouraged by the imitators because there are benefits to being first in the market with a new trend or detail,” Zarpas said. “Independent designers have the advantage if they already have a design in hand that no one has yet and they produce it before anybody else. It’s not a huge advantage, but it gives them a little bit of a competitive edge. The best revenge out there is to build a name for yourself.”

Building a Business on Imitation

In contrast, designer Allan Schwartz has built his reputation on the art of imitation.

“I believe there’s no such thing as original fashion,” he said. “Everybody pulls from everybody and it depends on who does what’s right at the moment that makes you a success.”

Every year, Schwartz “interprets” the latest looks worn at celebrity events, including the Oscars and the Emmys, and offers identical styles for lower prices. Some of Schwartz’s “borrowed” designs include Julia Roberts’ vintage **Valentino** Oscar gown and Sarah Jessica Parker’s pink feather **Patricia Field** dress.

Schwartz says designer gowns go for \$4,000, but he offers the same styles—down to the smallest detail—for \$300.

Schwartz’s contemporary denim line, **Allen B.**, however, is a completely different story.

➔ Independent page 2

NEWS

Independent *Continued from page 1*

“I wouldn’t borrow anything from the major designers,” Schwartz said. “If they’re doing the same thing I’m doing, then it just confirms that what I’m doing is right on the mark.”

Fashion is cyclical, Schwartz said.

“I can’t explain why something is in [style] one month and not the next,” he said. “The consumer is the boss and she dictates what’s in and what’s out. Our job is to feed the fire.”

Diffusion Strategy

In some cases designers opt to borrow from their own collections to reach a wider audience.

Designer Jared Gold created his recently launched junior line, **Black Chandelier**, by “diffusing” several styles from his contemporary collection.

The new line, which will debut in January at **Urban Outfitters** stores, includes a sampling of the designer’s unconventional fashion trends.

For those who know Gold’s couture line, the designer’s name alone drums up visions of turn-of-the-century fashion with over-the-top stylings. **Black Chandelier** is equally offbeat and eclectic in style but more affordable for **Urban Outfitters’** fashion-forward customers.

“Gold’s quirky fashion palette is perfect for **Urban Outfitters’** eclectic mix,” said Maggie Stein, a buyer at the store. “The silhouettes and prints Jared came out with are very fresh and seem very new to fashion.”

Gold said he designed the junior collection with the intention of mass-marketing his label.

“This is a completely new way for us to show the line,” he said. The line, which wholesales between \$12 and \$35, includes trompe l’oeil tops with eccentric details, puff-sleeve polo shirts, ankle-length pencil skirts, and antique and vintage-inspired accessories.

Gold admits he toned down some of his couture design concepts in order to create certain pieces in his latest collection. He calls it “Gibson Girl...

meets punk rock.”

“I’m not trying to replicate it completely,” he explained. “There are similarities between what I’m doing and the way it’s been done, but I’ve introduced new designs, so the style is a completely new look.”

Discouraging Imitation

Fabric patterns and prints are easier to protect under U.S. copyright law. Well-known prints by **Louis Vuitton, Gucci, Pucci** and **Burberry** are not made for mass marketing but have been targeted by manufacturers because their patterns are easy to replicate.

“This area is so defined, but counterfeiting still happens,” said Crystal Zarpas, a partner at Mann & Zarpas law firm in Woodland Hills, Calif. “If you look close, there are some pretty convincing knockoffs that can be found in alleys in downtown Los Angeles.”

The recent renewed interest in prints—including some classic patterns—has led at least one major fashion label to launch a counter-campaign.

Upscale outerwear manufacturer **Burberry** has recently taken a defensive posture regarding its familiar **Burberry** plaid. The London-based company’s latest ad campaign shows a little girl dressed in a **Burberry** classic plaid-pattern dress and standing in front of a sign on which a symbol reads, “No Counterfeiting.”

“The labels are publishing these campaigns as a deterrent,” Zarpas said. “They want to let people know that they take copyright very seriously, and it’s not worth counterfeiting their product because they will take you to court and it will be a very expensive fight.”

Levi Strauss & Co. also vigorously defends its trademarked details. The jeans maker maintains a trademark-protection division to “identify and destroy counterfeit products” and prosecute counterfeiters worldwide.

“When we identify the manufacturers that are

infringing on [our trademarks] our legal department will take action,” said Jeff Beckman, a company spokesperson.

Recently, the company filed a lawsuit against **Guess? Inc.** for allegedly duplicating **Levi’s** distinctive stitching design. **Levi Strauss** holds two U.S. trademarks for its distinctive designs, and the infringement is “causing incalculable and irreparable damage” to the company, according to the lawsuit, which further requested to block the sale of **Guess?** clothing with similar stitching until the case is settled.

“We take protecting our trademark very seriously,” said Beckman. “Our trademarks and brand name [are] what distinguish our product from competitors’ and are names and marks consumers recognize [and that] stand for quality and value that other brands may not necessarily stand for.”

In recent years, Zarpas’ law firm, which represents many aspects of the fashion industry, has worked with between five to 10 cases in which an employee allegedly took an employer’s confidential information or designs and used it for his or her own benefit. “The hard part is, in order to file a lawsuit you have to show some sort of damage,” Zarpas said.

One case Zarpas worked on involved a client whose stripe logo was similar to the **Adidas** logo. Zarpas said the case was settled outside of court, however, and her client agreed to remove the stripes from his product and pull all of the garments out of his stores. He also agreed to pay an unspecified amount in damages.

“You can’t protect a generic thing like a rainbow,” Zarpas said. “But if you put a cloud next to it in a particular way, that might make it distinctive.”

So what’s Zarpas’ advice for independent designers who want to protect their work?

“Do what you want to do, but take steps to protect your designs while they’re in development, and protect confidential information inside your company.”