

## KEY ISSUES FOR FASHION DESIGN PRACTICE: START UPS, IP AND CREATE

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The structure of this short paper is as follows, **first** I offer a critical commentary and overview of 'creative economy' in the light of the current research on fashion design practice and IP/Copyright in London Berlin and Milan, **second** I focus on methodological issues, **third** I provide some considerations of how copying in design practice is underscored by an embedded professional and pedagogic ethos, and **finally** I summarise some of the most salient issues in the study of start ups in London and Berlin along with offering some further reflections for the research.

### **Fashion re-Differentiation?**

Carrying out research on the creative economy or creative industries in 2013 is a noticeably different undertaking than was the case just 5 years ago before the age of austerity and the new agenda set by the UK Coalition government. As the titles of papers published in various academic journals such as IJCP testify, we now seem to be in the age of 'After Creative Economy' or 'Beyond the Creative Industries', though from my own perspective this does not suggest, despite the markedly lower profile of the DCMS, a diminishing of the creative sector in relation to work and employment, in particular self-employment, freelance work and project work. To the contrary, often taking place under the banner now of 'innovation' we can see a great deal of effort invested in setting up micro-businesses across the creative and new media sectors. The career of the fashion blogger is just one instance of the precarious pathways embarked upon in the new age of 'risk society'. City leaders and policy-makers have a key role to play even as these young people set themselves up independently and make-do without very much in the way of state/local support. For example the 'Lange Nacht der Start Ups' hosted at Friederichstrasse in Berlin September 7<sup>th</sup> 2013 relied upon various approvals and indirect support from the Berlin Senate. In a similar vein the migration to Berlin of significant numbers of young Italians whose aim it is, with the help of HartzIV welfare (to which they are entitled) to start-up their own small scale fashion labels is almost instantly responded to by the Italian Embassy in Berlin whose ambassador initiates discussion with the Senate as to how to formalise these activities, with all the usual toolkits and instruments coming into play, as part of an attempt to regularise these micro-economies ensuring their legality and their existence beyond the black economy. In the UK state support 'at arms length' varies much more widely from sector to sector, (though again I would wager that support is increasingly devolved to city and regional level) indeed this is the second key point I wish to make. The landscape of the UK creative economy has in recent years undergone a process of 'cultural re-differentiation'. Where through the decade of the Blair government and the heyday of the DCMS it was possible to talk more generally about the creative industries per se (despite the hand-wringing by many academics around the categorisation adopted in the many highly publicised task forces and mapping documents), the reverse is the case today. Under a wide range of pressures including of course cuts to budgets and fears about decline in audiences and consumers, we can witness diverse strategies adopted across much more sharply differentiated creative sectors. In the case of fashion I would propose a corporate professional agenda now shapes the industry at local and global levels, manifest in the success of the new online

journal/magazine The Business of Fashion. To sum up: in London the fashion industry under the auspices of the British Fashion Council has almost wholly broken away from an existence within the world of creative economy and has instead become a powerful force on its own right, maintaining a high profile link with government (indeed an open door to Number 10) through careful well planned high publicity managerial strategies which bring the importance of the sector to the attention of the population at large through extensive media coverage and through London Fashion Week and many other related events and activities. The BFC manages and oversees the support of young designers through a highly competitive prize-based system of mentoring and sponsorship in conjunction with the Mayors Office, the retail sector, and new institutions such as the London Trampery and the Centre for Fashion Enterprise. While now making extensive use of new social media, and with a nationwide retail strategy, this is nevertheless something of a disconnect model emulating a capital city London pathway. Where fashion students are trained to an exceptionally high level in universities across the UK, the regional policy-makers are to an extent excluded in the recent upscaling of the BFC.

### **Methodological Individualism in the Event Society?**

Sociological research aimed at developing close understanding of how, for example, fashion designers actually work, and how issues such as IP and copyright impact on their creative practice, requires that fresh consideration is given to qualitative methodologies involving professionals, companies and experts. Recent changes in the post-industrial 'cultural society' entail rises in individualised careers (with an emphasis on unique skills portfolios) and with this the reality of a de-socialised atomised, speeded-up mobile and flexible working environment. 'Network sociality' (Wittel) in the age of facebook career profiling, now involves more than laptops in cafes, and more than co-working spaces, (nb these are in fact tightly regulated 'socially exclusive' spaces, the exclusivity being generated, ironically, through the flexible seemingly open informality of the environment (eg Oberholz at Rosenthaler Platz). In fashion worlds there is a combination of both old and new models of working, the small scale independent designer is having to accommodate to the decline of the seasons as a result of fast fashion, the challenge of digital design technology and the need to have a strong online presence, while at the same time maintaining the design work involving prototyping and 'making' which rely on old-fashioned technology such as the sewing machine and the presence of a pattern cutter. These are slow and labour intensive processes, requiring more than the 'hot desk'. In short fashion designers need both studio space and advanced computer technology. As a result of these demands research access to individualised careers is hard to arrange and reliant not just on contacts and word of mouth recommendations, but also on short 'windows of opportunity' in working schedules which are subject to sudden changes and unpredictable crises. (All the more difficult when involving travel to geographically dispersed locations).

In such a context 'research by event' offers a possible model for professional reciprocity (academic researcher /design professionals) in such individualised creative worlds. The roundtable, seminar or even 'salon' has the advantage of bringing to the subjects of research or 'respondents' both topics of relevance or with use value and invited others who serve the same purpose. In addition the live event has the quality of surprise or unexpected interaction and networking opportunity which again acts as an incentive for participation. In short fashion design professionals must see some business advantage in giving costed time to academic research projects, especially where there is no promise of publicity as in the case of journalistic interviewing. For the above reasons the CREATE Fashion Project made the decision to bring at least some of the respondents and experts to Goldsmiths for

the June 2013 Kick-Off (report available). The event comprised short talks of ten minutes given by a wide range of persons including fashion academics, fashion consultants, one current PhD student and fashion blogger, (now a member of the CREAtE team) as well as designers and producers from London, Berlin and Milan. The proceedings were recorded and key topics which emerged throughout the afternoon and evening and following day (team meeting and visit to Central St Martins new campus for German and Italian guests) permitted the agenda to be more firmly set for the subsequent research processes. Since then these issues have indeed proved to be prescient, they include a) the over-riding role of 'reputation' in fashion world of new social media and brand management b) ambivalence in regard to the question of IP and copyright on the basis of the unique history of fashion design training and pedagogy which foregrounds copying. For example Vivienne Westwood's famous 'trademark' corsets were the result of her being introduced in 1984 by Milan-based writer and fashion consultant Giannino Malossi (also part of the CREAtE team) to a book by Edouard Fuchs published in 1909 and found in the Biblioteca Trivulziana (see Malossi 1998). In fashion design, training in research means in effect investigating design process and history in the work of past 'masters', finding out how they did it by virtually unpicking the seams and then drawing on these practices as a resource for a new fashion imagination. This is then reinforced by two further factors also debated at the CREAtE kick-off, first the need for design companies to ensure they are 'on trend' and hence use the services of major fashion forecasters such as WSGN (to protect against losses through being off trend) in effect this ensures some degree of colour and shape homogeneity which stops short at copying but also reduces risk. Second there is the rise of fast fashion and the competition which it presents to the upmarket brands. It is in this terrain that most of the recent highly publicised court cases have taken place, but again it is complicated and there is ambivalence as our subsequent interviews have revealed. Across the sector the question of the time and effort and reward in pursuing IP infringement is offset by questions of brand management and (in the case of Jil Sander) establishing such a strong signature (also based on highest quality fabric and tailoring) that copying and minor infringement are seen as inevitable, with the prestige lying in being an elite minimalist, while simultaneously seeing other equivalent designers as competitors for the same market segment (eg Celine and Prada). In effect a company like JS adopts a brand strategy which pitches itself above and hence untouched by the down-market world of 'knock offs', in comparison to Vivienne Westwood which meticulously monitors the fast fashion brands for infringements which are swiftly dealt with on the basis of a lawyers letter. On the other hand when Rihanna was photographed in a Versace knock-off from hipster new cool label Palace the company did not pursue the matter but instead saw this illegal use of the Versace logo as good publicity through the desired associations of hipness and 'cool'. The argument in favour of much stronger rights in IP and Copyright (see Tania Rufus-Phipps CREAtE) emphasises the importance of young designers and start-ups who have not yet established a strong and identifiable brand having access to the law to ensure against theft. For them neither reputation nor strong brand identification are sufficiently developed as assets, their creative work does not yet carry the cultural value which would mean that they could pursue and press a case against more powerful retailers who look very closely at the work of 'emerging talent'. In many cases complaints on behalf of unknowns to IP offenders go unheeded unless picked up by the media. But protection for IP and Copyright surely needs to extend beyond just the work of newcomers to the field? The capability-enhancing features of event-based research so far on this project shows that roundtables or workshops/seminars permit the possibility of bringing together newcomers, with established company designers who have designated offices whose role it is to protect from the range of practices which come under the frame of copyright and IP infringement, from copying to knock offs. This kind of dialogue can be helpful in opening up discussion and addressing such imbalances in the sector. In addition this kind of event research can play a key role in stimulating policy discussion, in defining professional good practice and in

developing a stronger lobbying mentality in a creative field which has often felt itself not to be listened to by government.

On the issue of methodological individualism, a defining feature of this kind of work with fashion professionals is that on the one hand the researcher is forced to work on a case-study basis, but is also then quickly made aware of the limitations of usual procedures such as ethnography, and even on site long-term observation, while with media-oriented professionals the semi-structured interview can easily slide into an opportunity to rehearse the most recent press release material for the new collection. So far it has taken a good deal of time and effort to secure the kind of research material which corresponds to the designated research task of ascertaining how designers and design teams actually work, and how issues such as IP impinge upon their practice. Ethnography is hard to envisage unless carried out by an insider given the practicalities of studio schedules, and the same holds true for even regular site visits. Overall the research process so far points to the value of initiating 'open-ended conversations' with designers, allowing them to talk more widely about the main issues that concern them. In effect this means guiding or directing the conversation rather than adhering to a script. This in turn reflects the emphasis the designers themselves place on the distinctiveness or uniqueness of their own practice. We have also found that it is beneficial to have some background knowledge about the past work and collections of the interviewees in much the same way as one would have to have such knowledge at hand in interviewing a film director or artist. Creative practitioners will also designate just a set amount of time to a single visit interview or conversation and anything more than this is difficult to arrange unless there is a more practical role which the research can play, such as hosting a key event or helping to establish a lobby. Overall given that there is a dearth of sociological research on this sector (most fashion scholarship emerges from art history or history of dress) we find that it is the pressing economic and policy-related concerns which are flagged up in the interviews and that IP and copyright issues are entangled with a range of other pressing matters which relate to how to keep afloat without access to loans and capital investment, and how to ensure quality in production and that deadlines are met for collections and shows and finally that the cost of taking part in events like London Fashion Week or Berlin Fashion Week is worthwhile.

### **Notes on Fashion Start-Ups London and Berlin**

With these last points in mind I will briefly summarise what we see so far as distinguishing design practice in the start-up scenes. In **Berlin** where there is access to subsidised space in good customer locations and alongside this a push on the part of government to encourage growth in the sector and to support self-employment, there are nevertheless intractable issues which take precedence over the threat of copyright infringement, these are low sales, limited access to bank loans, difficulties in managing retail and sales beyond the city of Berlin and in Germany never mind in the rest of Europe and worldwide, plus the high cost of moving to online sales. In addition there is competition from bigger retailers who look to the young designers for providing the kind of edgy fashion which they can then emulate without necessarily copying outright. Finally on IP issues the design start-ups so far have indicated the high cost and time required in pursuing infringements. The lawyers we have interviewed confirm this outlook and the member of the Senate with responsibility for the sector emphasises the importance of training and guidance on these matters in advance of setting up,

while also encouraging more interaction between the new media start-up scene and the fashion designers.

In **London** the cost of start-ups in fashion is prohibitive and has for many years been a disincentive for young designers. This has shifted a little very recently in austerity times and in the age of the pop up. However the British Fashion Council oversees and manages the policy horizon in London and the UK and endorses a high professional model based on mentoring and sponsorship for a handful of prizewinners only. In addition with so much emphasis on the global success of fashion at every level there is an ethos which welcomes the range of activities from high fashion to fast fashion and recognises their mutual inter-dependencies and the value to the upscale designers of getting a contract to work for a mid-range retailer. This has been long touted as the 'solution' for young UK designers, and it also semi-legitimises the role of copying and knock-offs as long as they avoid outright theft of IP. But such a solution is only available to designers who have already established some kind of reputation, a catch 22. In effect the London emphasis consolidates the status quo and the power of the retailers, there is very little in the way of support for studio space, and so far we have not been able to ascertain exactly the terms and conditions which prevail in the two recent start-up spaces the London Trampery and the Centre for Fashion Enterprise. However the buoyancy and confidence of the sector with London as a global fashion centre overrules questions about hardship and lack of support and subsidy for newcomers in the field. In this context two factors emerge as salient, one is that the possibility of being able to work digitally and rely wholly on online sales has given rise to already experienced designers with sufficient capital and access to producer services developing a new start up presence through e-commerce (eg Aries) and alongside this the flow into London of young people from across the world, and from wealthy backgrounds also accounts for some of the fashion start up activity in London which requires substantial capital to get off the ground. This latter claim will be subject to closer scrutiny when we carry out more interviews eg with Basso and Brooks, alongside the start-ups inside The Trampery and the CFE.