

LEGAL AND PRIVACY

Hadid copyright suit raises questions for luxury brands

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Gigi Hadid faces another lawsuit over copyright infringement. Image credit: Moda Operandi, photo by Kevin Tachman

By SARAH RAMIREZ

As celebrities and influencers continue to face legal consequences over copyright infringement, luxury brands must be aware of the repercussions they could face due to improper sharing of intellectual property.

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Model Gigi Hadid is one of the most recognizable faces to be sued for copyright infringement, after posting a photograph of herself without consent on one of her social media channels. As brands look to share user-generated content online, they will also need to tread carefully.

"Influencer advertising and social media advertising are big business and copyright owners know this," said Fara S. Sunderji, partner at [Dorsey & Whitney](#) and co-manager of [TheTMCA.com](#). "It is a best practice to make sure you have permission to post any photos on your social channels not just from the copyright owner, but from the people who appear in the photos.

"Just because your phone or computer allows you to screen grab, copy or repost a photo doesn't mean that it is legally permissible," she said.

Legal likes?

On Jan. 28, photo agency Xclusive filed a federal lawsuit against Ms. Hadid accusing her of sharing a paparazzi photograph of herself on Instagram without permission from the agency's photographer.

According to the suit, approximately 1.6 million people commented on or liked the photo when Ms. Hadid posted it in October 2018. The model, who has 45.9 million Instagram followers at press time, has since deleted the photograph in question.

This is not the first time Ms. Hadid has been accused of copyright infringement. She was previously sued in 2018 for sharing another photograph of herself on social media without attribution and obtaining usage rights from the photographer or brand ([see story](#)).

Xclusive's lawsuit claims that Ms. Hadid has shared at least 50 uncredited photographs on her personal Instagram. The agency is seeking damages for copyright infringement.

Prior to the suit being filed, the model publicly shared her thoughts on Instagram.

[View this post on Instagram](#)

A post shared by Gigi Hadid (@gigihadid) on Oct 18, 2018 at 4:56pm PDT

Gigi Hadid responds to accusations of copyright infringement

In a push for authenticity, many luxury brands also share user-generated content on their official social media channels.

Beauty brands have a well of endless UGC on Instagram, more so than most other sectors, as these fans are highly interactive, especially on the photo-centric application.

For instance, Chanel's @WeLoveCoco page reposts content curated from the hashtag #WeLoveCoco on Instagram. The profile's link, listed as Chanel.com/welovecoco, redirects users to its U.S. makeup page, featuring its best sellers at the top.

Dior has a page for fan content as well, @DiorBeautyLovers, which is even officially verified with Instagram's blue checkmark ([see story](#)).



Celebrity influencers' paid posts result in modest engagement rates. Image credit: Bella Hadid for Dior

"When it comes to user-generated content, just ask. Send your customers a DM and confirm it is okay to repost their photos on the brand social media feed," Ms. Sunderji said. "If they say no, there is so much content out there.

"The risk to proceed without permission might not be worth it when you consider alternative photos that you do have permission to post," she said.

Additional insights

Arrangements with social media influencers have also led to complications for brands.

In another high-profile social media case from 2018, actor and influencer Luka Sabat was sued by a public relations firm, PR Consulting, in the New York State Supreme Court.

The lawsuit alleged that Mr. Sabat failed to meet the stipulations from his contract to promote glasses for the agency's client, Snap Inc., which required him, among other things, "to create original content for a minimum of four unique posts: one Instagram Feed Post and three Instagram Story posts."

Mr. Sabat was also required to submit the posts to PR Consulting for review and provide analytics about the posts, and agreed to be photographed wearing the product as part of the promotion. PR Consulting agreed to pay him a total of \$60,000, including \$45,000 paid on signing the agreement ([see story](#)).

When it comes to influencer marketing, brands face concerns about dealing with selecting trustworthy influencers and measuring ROI. According to a webinar presented by [Shareable](#), influencers drive an overwhelming 72 percent of social media actions.

With more than 180,000 posts of branded content online, brands need to be selective and work with influencers who are authentic, trustworthy and engage with their audiences. These traits also need to coincide with campaign goals to make the partnership valuable.

Nearly half of those surveyed, 42 percent, confirmed they tried something recommended by an influencer and 26 percent made a purchase. Influencers especially made an impact on younger adults ages 18 to 24, with 48 percent making a purchase inspired by an influencer ([see story](#)).

Laws concerning copyrights and technology, however, have not been keeping pace with today's rapidly-evolving social sharing culture.

"The DMCA, Digital Millennium Copyright Act, is now more than 20 years old," Ms. Sunderji said. "The E.U. is trying to update its law with the E.U. Copyright Directive and specifically Article 13, which has been colloquially called a meme ban, but it remains to be seen if that will pass, how it will be implemented by member states and then how it will work in the real world.

"It seems to me that any update to copyright law will have to be a global compromise likely led by the World Intellectual Property Organization, WIPO, because inconsistent copyright law when applied to social media just can't work," she said.