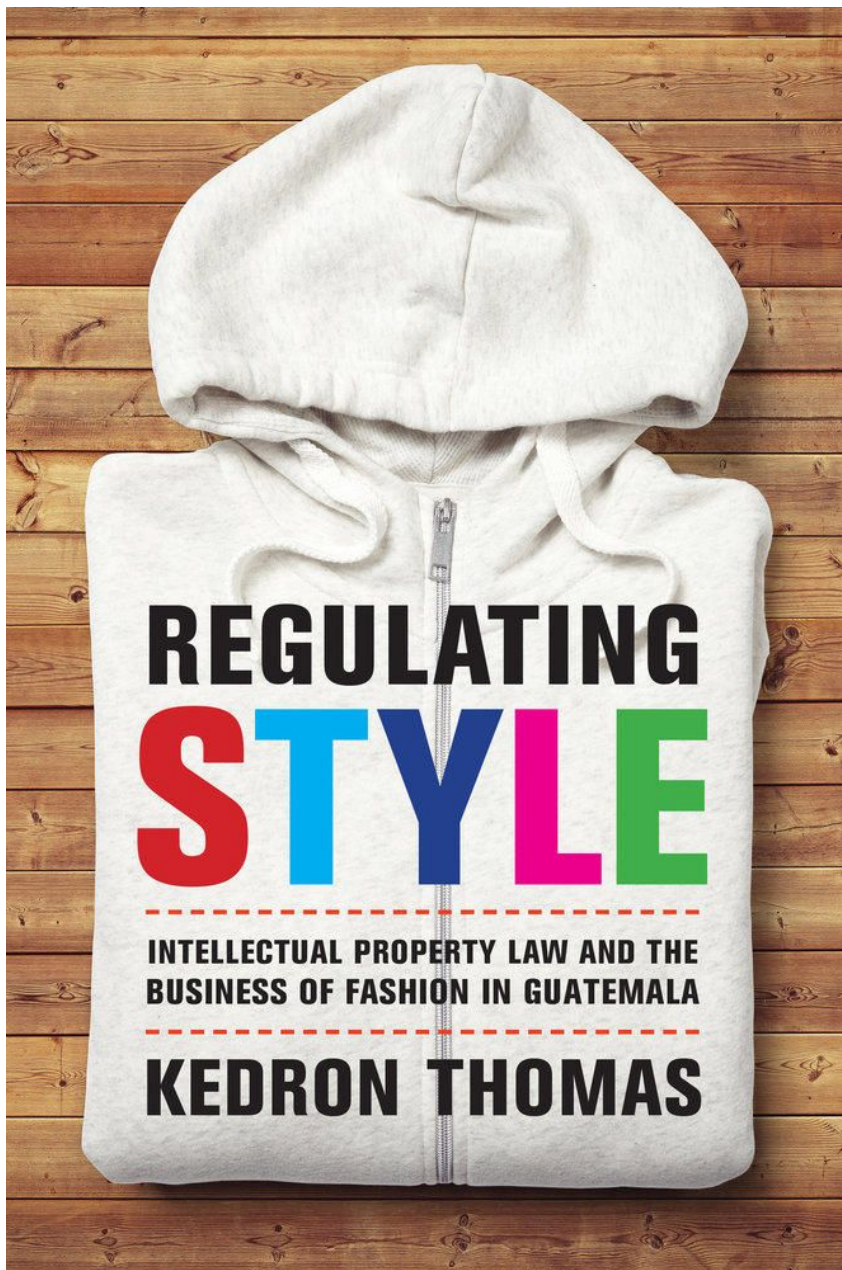


Regulating Style: Intellectual Property Law and the Business of Fashion in Guatemala

“No hay primero” Style in the Maya Highlands

A Review by **Maria de Lourdes Vazquez**



Regulating Style: Intellectual Property Law and the Business of Fashion in Guatemala

by Kedron Thomas

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At the Art Basel Cities exhibits in Buenos Aires a few months back, Mexican artist Pia Camil displayed her interactive artwork, “Gaby’s T-Shirt,” a striking ceiling-to-floor curtain made of 300 T-shirts portraying first-world logos, brands and trade names. The T-shirts were originally produced in different countries across Latin America, exported to the United States, and eventually discarded and resold in second-hand markets across Mexico and other neighboring countries.

The public at the exhibit touched, entered and moved Camill’s artwork, with viewers swaying the curtain, their heads appearing through the necks of the T-shirts. The slogans, drawings and symbols on the shirts representing “North American” culture, appeared in contrast to the Latin American voices heard from the other side of the fabrics and the faces poking through the material. Upon viewing the work, one can reflect on the circularity of the end product. By transforming these garments into an interactive artwork, the artist may be reclaiming these garments made by Latin American hands for the people of our region. Also, on a conceptual level, what does it mean for Latin Americans to wear these North American messages and slogans? In addition, is there an underlying theme reflecting on intellectual property laws and economic colonization?

In 2006, Kedron Thomas, a Harvard Ph.D. in anthropology, carried out a comprehensive ethnographic study investigating the work of Maya manufacturers of clothing such as the T-shirts used in Camill’s art installation. She spent 21 months living in Tecpán, a large Maya town located eighty kilometers from Guatemala City, which has become a manufacturing center in the highland apparel trade. She recorded interviews with more than a hundred tradespeople, not only in Spanish, but in the local indigenous language, Kaqchikel. Thomas, now Assistant Professor of Anthropology at Washington University, even worked for some months in local garment workshops, operating industrial sewing machines, partaking in the highlands manufacturing process.

This impressive study focuses on the garment industry in the indigenous Guatemalan highlands, including reflections on the history of the region, and the lives and livelihoods of the workshop owners and workers. It is a scholarly work, but one that is accessible to readers without previous knowledge of the country or the subject. Thomas analyzes the different conceptions of property, ownership and authorship present in Guatemala’s apparel trade, as opposed to those written into intellectual property laws. She discusses how globalized IP standards are being enforced in the Maya highlands. Yet, she also gives compelling accounts of the entirely different conceptions of originality and copying among the people who make and sell “knockoffs” in highland Guatemala, as well as people who buy and wear these garments. A Maya worker consulted by Thomas indicated that by criminalizing the work of highland garment makers, it is evident that IP law does not understand how fashion and style actually come into being. “*No hay primero*” (there is no original), he insisted, perhaps reminding readers that the remix culture is alive in Latin America, and that local manufacturers do not see themselves as passive players, solely “surrendering” to cultural globalization.

The book is organized in five chapters. Chapter 1 introduces workshop owner Guillermo Ordóñez and the history of his family's involvement in the apparel trade, with special focus on the historical relationship of national and international regulatory contexts. Guillermo, whose workshop operates out of the cinder-block room behind his family's house, specializes in sweatshirts featuring logos of globally-popular fashion brands. His father, who initiated the family trade, was killed by a state-sponsored death squad. One of the bitter undercurrents in the book describes the violence and loss of lives during Guatemala's internal armed conflict, and how the strategic targeting of indigenous professionals and business owners has transformed the local apparel trade.

Thomas contends that the Guatemalan apparel industry model challenges development models that assume economies move naturally from informality to more formal relationships with the state. Guillermo's father had wanted to register his own brand for more visibility in the apparel trade. Yet, the current generation of small-scale businesses prefer to avoid the disclosure of registering local trademarks and perceive more value in globally recognized brands than in their own local labels.

The political and legal processes through which the globalization of IP law has taken place is the subject of Chapter 2. Most countries today—including Guatemala—have "TRIPS-compliant" IP laws—which means that they meet the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) criteria for developing countries to meet certain international standards. Thomas contends that the inclusion of IP in trade negotiations reflects the interests of corporate lobbies concerned with the impact of counterfeiting in the developing world on their profitability. Most Latin American countries today agree that IP rights can further development. The issue that remains controversial is whether a relatively strict IP regime—as embodied by TRIPS—is the best framework to encourage growth in developing countries, or whether a more flexible regime may be more appropriate for some of these countries.

Also discussed is the everyday toil of the Maya apparel workshop owners, and the system of "*cofradía*" or ethnic solidarity between workshops and workers. Thomas also examines how copying or borrowing are evaluated in light of normative value systems significantly different from TRIPS, but instead related to ideas of envy, individualism and unfair competition.

Chapter 3 explores the world of trademarks. Thomas conveys that it is simplistic to label these highland brand pirates' works as illegal or immoral. They are doing something "innately human by making meaning" in the production of material culture. Thomas suggests that trademarks are not just vehicles for corporate identity. She proposes an approach that considers brands and logos as design elements that can be combined in aesthetic projects, as markers of gender, ethnicity, class and abstract signs of global modernity. Manufacturers in Guatemala are not ignorant of the law; nor are they deceiving their customers, who certainly know they are buying "knockoffs." Highland pirates include recognizable brands in their designs in order to compete in the non-traditional garment marketplace, which has for some time been saturated with logos. They make contemporary garments accessible for their Maya kinship.

Of the many life stories in the book, particularly poignant ones are told in this chapter of the efforts of some Maya manufacturers to market their clothing under their own brand names with reference to their indigenous identity.

The campaigns all over Latin America urging citizens to demand their receipt in order to discourage tax evasion did not escape Guatemala. The government's "*iPida su Factura!*" campaign ("Ask for your receipt") is discussed in Chapter 4, which focuses on business accounting. The last chapter involves security and doing business amid rampant crime, violence, drug wars and government corruption, discussing how highland manufacturers assess the law and attempt to manage criminality and social suffering in their daily lives. Thomas explores the Maya view of the mysterious shooting of attorney Rodrigo Rosenberg, and the legacy of the long armed conflict, the conditions of inequality and marginalization that drive gang participation. She rightly reflects on the absurdity of equating brand piracy to terrorism.

In the end, Thomas explores the notion of style. She suggests that copying is part of the dialectic movement of style. Amid growing rates of poverty, inequality and violence in Guatemala, Maya highland style is a valuable resource, combining elements both of precarity and vibrance. Despite the undue subordination of Maya Guatemalans, creativity and effervescence abound. The fact that makers of garments featuring unauthorized trademarks claim to be creative seems paradoxical, but Thomas attributes this to the fact that corporations and developed nations have been allowed to set the rules of what counts as creativity and originality. The book intends to show that Maya participation in the fashion system is a dynamic engagement with material culture, which creates works that are "new."

In sum, this is a methodologically rigorous, carefully crafted, innovative book. Besides being an example of thorough academic scholarship, it becomes evident that the author has exceptional knowledge of and authentic concern for life in the Maya highlands. This fundamentally anthropological study raises many interesting questions with respect to the global IP framework and its impact on development. Under IP law, artistic freedom to include unauthorized brands as design elements in commercial merchandise is unlikely to outweigh property rights. However, the book addresses the more fundamental question of whether the globalized IP regime reinforces structures of inequality, sustaining "neocolonial" segregation of the world in which corporations and developed nations are allowed to be creators and licensors, while populations such as the Maya of the Guatemalan highlands, are relegated to copying and imitating at the margins of the global economy.

It is true that not all copying is piracy, and brands have been used without authorization as abstract signs of status or global modernity in artworks for years. A recent and relevant example is the performance piece of the aforementioned artist, Pia Camill's, *Divisor pirata*, which became a documentary featuring dozens of people walking through the streets of Guatemala City, with their heads poking through a fabric made of knock off T-shirts, while their bodies remained covered underneath. This book makes the argument that IP is one of the factors operating as a *divisor*, a barrier for these indigenous peoples trying to collectively "*levantar cabeza*," raise their heads, into development and modernity. Our challenge as a developing region is to move away from the paradigm in which IP operates as a barrier, to a new era in which we use our regional talent and human capital to diversify from a commodity-based dominance, into knowledge-based, and innovation-driven development. Intellectual Property can be an integral component of that process.

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