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A Fashionable Conflict Resolution : The Bespoke Approach of Mediation

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In the backstage of all that mesmerizing glitter and the luxurious glamour of fashion industry, conflicts have always been there. Till date no one can forget the notorious rivalry that burst in the early 1920, between the famous Coco Chanel and the avant-garde surrealist Elsa Schiaparelli; their elegant strifes and glamorous tensions remodeled the fashion history. Whether on the runways or even behind the curtains, conflicts were always present in the world of fashion and creation. Amidst the glitter of haute couture, the sparkling universe of creation and the charm of glamorous beauty, an innovative and sophisticated solution transcending the traditional avenues of dispute resolution occurred; This innovative bespoke process is no other than mediation.

The idea of mediation is a long-standing concept; however, its implementation as a conflict resolution alternative is relatively new especially in the fashion world. Nonetheless, mediation proved to be not just a simple trend but a well-established process. One of the iconic cases that embodies and symbolizes the power of mediation in the fashion industry is the dispute between Christian Louboutin and Yves Saint Laurent over the use of red soles on high-heeled shoes.

It all started back in 2011, when Christian Louboutin, a shoe designer renowned for his iconic, red-soled shoes, filed a lawsuit against the well-known brand Yves Saint Laurent, claiming a trademark infringement. The feud between these two fashion titans captivated the industry. The legal battle between these fashion figures threatened to blacken the reputations of both brands and disrupt the fragile and graceful equilibrium of the fashion world. Instead of allowing the dispute to escalate further through lengthy and public litigation, both parties chose mediation in order to find together a solution for their dispute. After a constructive dialogue facilitated by a neutral mediator, Christian Louboutin and Yves Saint Laurent reached a settlement agreement back in 2012.

This landmark agreement was clear evidence that mediation is an effective process resolving complex and intricate disputes combining “legal drama” and haute couture finesse. Mediation is then seen as the promising “couturier” designing a refined bespoke garment or a “*su misura*” dress !

In the light of this alluring case, let's explore how mediation, through its delicate tools, can elevate elegance in resolving conflicts within the fashion industry.

1. *Confidentiality Couture*: Confidentiality and Discretion are the cornerstone of haute couture and fashion designs. And just like this exclusive world of luxury, confidentiality reigns supreme as well in mediation providing a safe and private podium for parties to communicate and resolve their differences away from the public eye. Picture a high-profile dispute between fashion icons over intellectual property rights. Mediation offers a discreet

resolution platform, safeguarding the reputation of the brand and the integrity of involved parties, while preserving the mystique and image of the brand in the fashion world.

2. *Efficiency in Elegance*: Fashion is about trends and trends are in a perpetual motion of designing, re-styling, and transforming. Time is of the essence in this arena, even when it comes to conflict resolution. In the fast-trend fashion world, mediation is considered the quintessence of efficiency due to its well-designed, structure-tailored, and swift process. Imagine a scenario where a luxury brand finds itself in a contractual dispute with one of its major suppliers due to delivery delays. Through mediation, conflicts are addressed promptly, allowing involved parties to refocus their energies on what truly matters, the creation of exquisite designs and impeccable bespoke craftsmanship.

3. *Preserving Relationships*: Like a talented seamstress sewing a fine “*su misura*” garment, mediation delicately weaves a tapestry of understanding, facilitated communication, and cooperation, preserving relationships between stakeholders. Take for instance, the scenario of a luxury fashion house involved in a dispute with its esteemed designer over some creative divergences or other differences. Rather than resorting to adversarial and public litigation, mediation offers a platform for open and private dialogue woven in mutual respect, ensuring that the partnership remains intact, and both parties continue to flourish creatively. We all remember the famous lawsuit between John Galliano and Maison Dior back in 2011, the latter discharged Galliano after fifteen years of exquisite collaboration with huge media clashes. Mediation could have been the “*fil d’Ariane*” (Ariane’s thread) that would have carefully stitched this flourishing creative relationship and preserved the mythic image of the brand!

4. *Innovative and tailored Solutions*: Mediation, just like fashion, offers a new-fashioned bespoke solution tailored to the unique needs and interests of each party. Whether it's a disagreement over a licensing agreement, a breach of contract, or a dispute regarding the ownership of a certain design, mediation adapts to the sophistication of each case, ensuring a customized resolution that resonates with all parties involved. By prioritizing flexibility and individuality, mediation allows stakeholders to find common ground and fashionable solutions that are as unique and distinctive as the garments they create.

In fact, mediation offers innovative solutions beyond the traditional litigation. Consider a simple trademark infringement dispute between luxury retailers, mediation gives parties the opportunity to think outside the box, exploring creative solutions such as cross-promotional campaigns or collaborative design ventures, thereby fostering a spirit of innovation and cooperation within the industry.

The dispute between Gucci and Guess over trademark infringement, is the fitted example of how mediation helps parties get to customized tailored solutions.

In fact, back in 2009, Gucci filed a lawsuit against Guess, alleging that Guess had been selling products that imitated Gucci's trademarks and designs, leading to consumer confusion and dilution of Gucci's brand. The legal battle lasted for several years, with both parties engaged in complex litigation proceedings and tabloid headlines. However, in 2012, the two fashion giants opted to resolve their dispute amicably via mediation. Through the transformative process of mediation, Gucci and Guess were able to tailor a bespoke settlement agreement that included financial compensation and a licensing arrangement, allowing Guess to continue selling certain products without infringing on Gucci's trademarks. The Gucci-Guess case demonstrates how mediation can effectively address complex disputes within the fashion industry, offering a time efficient, bespoke-constructive, and harmonious collaborative approach to resolving conflicts while preserving the integrity and reputation of the brands involved.

Through the previous paragraphs we delved into the benefits of mediation resolving fashion disputes via cases that were in fact submitted to mediation, yet the irrefragable proof that mediation do have a considerable input in fashion industry conflict resolution, is in the simulated implementation of this transformative process to an ongoing lawsuit causing a turmoil in the world of fashion and luxury brands industry.

When we think of a contemporary vogueish fashion dispute, we likely can't think but none of the notorious Birkin Bag affair or what I shall refer to as ***"the Birkin Bag Gate"***.

What is the "Birkin Bag Gate" about?

Revered for its impeccable craftsmanship, luxurious items and timeless elegance, the French house of Hermès has been, for decades, a synonym of elite, prestige, and exclusivity. Many luxurious items of the brand are considered as worldwide-coveted especially the "urban legend" Birkin bag. The Birkin bag is one of the most sought-after items at Hermès. Every worldwide fashion aficionado wishes to own a Birkin due to its unique design but mostly due to its symbol of A-list status.

In the mid of March 2024 the famous luxury retailer, Hermès has found itself at the center of a legal controversy in the United States, after a federal class-action lawsuit filed against it in San Francisco by two individuals. The fashion luxury industry was shocked by the newspapers headlines revealing an accusation of discriminatory practice, market manipulation and antitrust law violation.

The Claimants alleged that Hermès has been engaged in discriminatory acts by only selling its famous Birkin Bags to an elite group of customers who have already spent exorbitant amounts on other items in their boutiques. According to the complaint, access to this most coveted bag is limited to the brand's wealthiest clients. This restriction, which seems to prioritize big spenders, has raised concerns about fairness and equal access to the brand's

products. Therefore, the main accusation revolves around an antitrust violation since this “practice” could be seen as a market manipulation and a discrimination against ordinary customers by requiring them to purchase other luxury products before being eligible to buy the Birkin Bag.

Considering this “Birkin Bag Gate”, what if, instead of this federal class-action lawsuit, parties decided to solve their dispute in a more timely and amicable manner?

What if they turned to mediation?

And if so, what will be the main benefits of mediation in this case and specifically to Hermès.

Hermès, known for its quality craftsmanship and its heritage in the fashion luxury world, could see its reputation tarnished by the publicity of long litigation proceedings, newspapers headlines and all these allegations accusing the renowned company of establishing a sort of discriminatory elitism and inequality in the fashion industry.

With its constructive tools and transformative techniques, mediation can potentially help the parties solve their dispute by providing them with an open communication platform where they can have a constructive dialogue, allowing them to express their motives, concerns, differences; identify their interests and explore their options through a facilitated and negotiated dialogue. Mediation will help the parties explore solutions within a cooperative confidential atmosphere, beyond the confines of public legal proceedings and mitigating potential reputational damages.

The confidential aspect of mediation will hold back a possible reputation tarnish, avoid reputational damages, and clarifying the motives behind their internal policies or marketing strategies that are often created by renowned brands such as Hermès, to maintain the prestigious brand’s name and preserve its history.

Mediation can, therefore, with its swift, flexible- constructive process and with its confidential forum, pave the way for a mutually beneficial resolution of the Birkin Bag controversy especially by avoiding the time expense and uncertainty associated with prolonged public litigation proceedings. As mentioned earlier in the Gucci- Guess dispute, mediation can help parties to prioritize flexibility and individuality, allowing stakeholders to find common ground and tailor bespoke solutions that are as unique and distinctive as the Birkin Bag.

This simulated case study demonstrates that if parties chose mediation, they could effectively address their fashionably intricate dispute in a more constructive and collaborative approach, preserving the integrity and reputation of the brand involved, such as the house of Hermès, tailoring and designing “su misura” solutions while respecting mutual interests, market rules and equality law.

In conclusion, mediation is undoubtedly the ultimate tool for resolving conflicts amicably with grace and style leading to a sophisticated, bespoke solution.

So, next time if a conflict arises in the world of fashion, that mediation is not just a solution, but it's a statement, an expression of elegance and refinement that transcends borders and boundaries, uniting stakeholders in pursuing a confidential excellence, sartorial solution creativity, and haute couture well balanced relationship!