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### **Surname as trademark – “selling” you identity in a fashion area**

The concept of Fashion Law has emerged in the past few years in several forums. Most of the trademarks used in Fashion Law are created by designers who want to create their brand on the basis of their surname.

However problems arise with such trademarks when a company starts to have economic problems and decides to sell the trademark, which is a surname or in which part of a surname was used. According to US case law, after selling a personal name trademark, the name-source may still use their name in commerce descriptively, not as a trademark, and in good faith<sup>1</sup>. The case referred to below created a precedent on how to regulate agreements when part of them is selling or giving the license to use a personal name trademark.

This solution seems not to be the same according to European regulations. According to European case-law, especially after the Nichols case, there is a ruling that this trademarks should be judged in the same way as another ones. In consequence it allows you to sell your own name as a trademark and not have the right to use it afterwards. This can easily be observe after the Karen Millen case in the UK Court of Appeal<sup>2</sup>.

The questions which arise are:

- where is the limit to use someone name as a part of a trademark?
- how to regulate using someone’s name after selling it as a part or as a trademark?
- is it moral to use someone’s name and reputation by using his/her name as a trademark?

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<sup>1</sup> Compere Joseph Abboud case, United States District Court, S.D. New York. 682 F. Supp.2d 294 (S.D.N.Y. 2010)

<sup>2</sup> Millen v Karen Millen Fashions Ltd and Anor Court of Appeal of England and Wales; 15 January 2016