

# Q&A: Kenneth Anand and Jared Goldstein speak about their book 'Sneaker Law'

By Kenneth Anand, Esq., and Jared Goldstein, Esq.

OCTOBER 29, 2020

Anand and Goldstein are self-described “sneakerheads” who describe “Sneaker Law” as the first book that teaches you all you need to know about the sneaker business. The soon-to-be-released book covers the business and legal sides to the sneaker industry and includes an exploration into the intersection of sneaker design and law.

Thomson Reuters asked the authors to give a broad explanation of some of the intellectual property issues the book covers in detail.

**Thomson Reuters:** How did the two of you enter the sneaker business and what brought you to write “Sneaker Law”?

**Anand & Goldstein:** Like most sneakerheads, both of us started learning about the business from a very young age, as enthusiasts and consumers. Jared had his own sneaker reselling business in college, where he made a good amount of money flipping kicks. That carried him to law school, where he interned at Complex Media and learned more about the sneaker business and its various legal aspects. Kenneth represented streetwear and sneaker brands in private practice at various NYC firms over his career. He left law firm life in 2017 to become general counsel of Kanye West’s fashion brand Yeezy. Jared and Kenneth met after Kenneth read some of Jared’s legal articles on sneakers that he wrote for Complex and reached out via LinkedIn. We became good friends and the idea of “Sneaker Law” evolved into what it is today.

**TR:** Generally speaking, how can “Sneaker Law” help attorneys and fashion designers?

**A&G:** Through “Sneaker Law,” we hope to educate and empower our readers so they can have a more meaningful understanding of the sneaker business. We’ve taken all of our legal and business experience, research and passion, and of course undying love for sneakers, and compiled it all into this book. For attorneys and law students, we have two legal areas that we cover: (1) Litigation & Disputes, and (2) the Art of the Sneaker Deal. The first section explains the most important areas of law that shape the sneaker business and some major litigation and disputes related to each of them. The Art of the Sneaker Deal, on the other hand, highlights important contractual terms that come up when negotiating different types of sneaker deals, and how to negotiate these terms from the perspective of all parties involved.

“Sneaker Law” will also aid and empower aspiring and established designers. For those looking to break into the business, our design chapter examines the design process, the different duties of sneaker designers, how to become a sneaker designer, notable design schools and some of the most influential designers in the sneaker business. Other chapters, such as the Art of the Sneaker Deal, provide invaluable insight into the many important legal terms included in sneaker agreements. Designers who study our textbook will have a better understanding of what they should negotiate and push for before they enter into their next sneaker contract.

Outside of the lawyers, law students and designers, entrepreneurs, other students, current and aspiring business owners, resellers, brands, collectors and people in general who want to learn about the sneaker business will benefit from our book’s explanations on the latest business trends, legalities, and practices that shape the rapidly growing and highly lucrative sneaker industry.

---

We hope to educate and empower our readers so they can have a more meaningful understanding of the sneaker business.

---

**TR:** How has the U.S. Supreme Court’s holding in *Star Athletica LLC v. Varsity Brands Inc.*, 137 S. Ct. 1002 (2017), which upheld copyright protection for cheerleading outfits, affected the sneaker industry?

**A&G:** The Supreme Court decision in *Star Athletica* has provided sneaker designers and companies with an additional avenue of IP protection for certain separable graphic or pictorial designs incorporated into sneakers. Perhaps not all sneaker designs fit the criteria for this application, but for those that do, it can be far less time-consuming and costly to apply for a copyright than a design patent or trademark. In some cases, it may be a worthwhile investment to apply for all three forms of protection.

**TR:** In the copyright context, how does one draw the line between using other designs for inspiration or direct copying?



**A&G:** In any aspect of creativity, there is a fine line between inspiration and appropriation. Most visual designers are always looking for inspiration to incorporate in various ways to their own work. In terms of copyright in sneakers, so long as the designer does not directly copy any prior pictorial, graphic or sculptural work (whether that work was created as freestanding art or part of some useful article), we think they should be free to draw on as much inspiration as possible. Inspiration is what truly makes a sneaker great!

**TR:** What are some of the significant trademark law decisions that have affected the fashion industry and the sneaker business in particular?

**A&G:** Many publicized sneaker disputes quietly settle and an even larger number are resolved before they are made public. There are, however, a handful of instructive trademark decisions that we cover in "Sneaker Law."

---

### 'Sneaker Law' will also aid and empower aspiring and established designers.

---

Although not directly related to sneakers, a seminal case for fashion and the footwear industry on the whole, is *Christian Louboutin SA v. Yves Saint Laurent America Holding Inc.*, 696 F.3d 206 (2d Cir. 2012), where the 2nd U.S. Circuit Court of Appeals held that the red outsole on a woman's shoe had obtained secondary meaning and therefore was worthy of trademark protection under the Lanham Act.

In *Adidas America Inc. v. Skechers USA Inc.*, 890 F.3d 747 (9th Cir. 2018), Skechers was unsuccessful on appeal and found to have infringed upon Adidas' iconic Stan Smith tennis sneaker with its almost look-alike "Onix" model. Converse has also gone to great lengths to protect its classic design of the Chuck Taylor canvas sneaker and, in 2014, pursued some 31 competitor brands that offered strikingly similar models.

**TR:** What are some of the ways utility patents and design patents can protect a sneaker designer's work?

**A&G:** Patents are commonly used by major sneaker brands to protect designs. Design patents are used to protect

ornamental and aesthetic features of sneakers that are novel and nonobvious. This means that the design in question must encompass a considerable amount of originality. An example of this is Adidas' design patent for the design of the Yeezy Boost 350.

Utility patents are used to protect new and innovative technologies that are incorporated into a sneaker design. An example of this is Nike's utility patent for its auto lace technology, which is a self-lacing system that automatically tightens a sneaker's laces. This technology was famously utilized in the Nike Mag, which was first seen in "Back to the Future Part II" on Marty McFly, who was played by Michael J. Fox.

Plant patents, the last kind of patent, are currently not being used for sneaker designs. But with sneakers, who knows what the future holds!

**TR:** Would you say current IP laws are sufficient for protecting sneaker designs?

**A&G:** Despite the many forms of IP protections available (e.g., trademark, trade dress, patent and copyright), sneakers are a highly lucrative and cutthroat business that has been and will continue to be rife with infringement issues. Whether the problem is with rival brands stealing successful designs and novel inventions, or international counterfeiting rings exporting millions of pairs of near identical copies of famous sneakers, the sneaker business is a legal zoo. The laws may be sufficient in theory, but they would be meaningless without all the savvy sneaker lawyers who help enforce them.

**TR:** When is the book available for purchase and how can I get a copy?

**A&G:** Our limited, first-run print edition, Sneaker Law V1, is available for pre-order now at sneakerlaw.com. We will also be releasing the e-book version on Amazon before the end of the year. Thank you for supporting Sneaker Law!

*This article was published on Westlaw Today on October 29, 2020.*

---

## ABOUT THE AUTHORS



**Kenneth Anand** (L) is co-author of “Sneaker Law” and the co-founder of 3 8 0 Group, a fashion licensing company specializing in the manufacturing and distribution of premium apparel, footwear and fashion accessories. From 2017 to 2019, he was general counsel and head of business development at Yeezy Apparel, Kanye West’s sneaker and fashion house. Prior to his position at Yeezy, he practiced law for more than 15 years, advising companies, executives and entrepreneurs in employment, intellectual property and entertainment matters with an

emphasis in the fashion industry. He can be reached at [kenneth@sneakerlaw.com](mailto:kenneth@sneakerlaw.com). **Jared Goldstein** (R) is co-author of “Sneaker Law” and legal counsel at LiveIntent, an ad-tech and marketing company. He assists LiveIntent with all in-house legal matters, including advertising, technology, digital media, privacy and data protection, IP, compliance and corporate issues. Prior to LiveIntent, he worked at Undertone and Complex Media, where he assisted their legal departments with a wide array of matters related to advertising, technology, IP, licensing, digital media, compliance and other issues. He can be reached at [jared@sneakerlaw.com](mailto:jared@sneakerlaw.com).

**Thomson Reuters** develops and delivers intelligent information and solutions for professionals, connecting and empowering global markets. We enable professionals to make the decisions that matter most, all powered by the world’s most trusted news organization.