Patenting Fashion: Examining the design work of Marion McCoy, 1938 – 1944

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Keywords: Patents, history, design, McCoy

Patents offer significant information for researchers, and can provide insights into the history of designed objects. Fashion designers have periodically sought protection from copying through patents, and while designers filed for apparel design patents intermittently throughout the twentieth century, for a short period of time between 1937 and 1944, the number of garment patents increased dramatically.¹ The most immediate reason for this increase was the landmark Supreme Court case against the Fashion Originators Guild of America (FOGA), a design protection organization that was quite successful in the 1930s, but became entangled in various anti-trust court cases in the late 1930s. In April 1941, in the United States Supreme Court case, *FOGA v. Federal Trade Commission*, the organization was declared in restraint of trade ("Supreme Court," 1941). As the FOGA was struggling in the courts, designers and manufacturers began to seek other avenues for protection. Copyright for fashion had consistently failed in congress, so the next best option was the design patent system. Many of the designers that filed these patents did so under their own name and not that of the company. Because their names were generally not on the label, a study of these patents can offer glimpses of often unknown ready-to-wear designers, and allow their work to be uncovered. It can also provide insight into a single designer’s overall style and a fuller picture of seasonal lines, most of which does not survive other than as individual pieces in historic collections or occasional advertisements.

¹ The patent system included two options, utility patents and design patents. Although apparel was considered utilitarian, apparel designs did not exactly fit either system. Thus unless there was a particular technical aspect such as a unique closure that was being patented, all other apparel was submitted as a design patent.
This research, conducted as part of an undergraduate research grant, focused on one designer, Marion McCoy (1912-1960), who began her career in the St. Louis junior market. By choosing one designer who patented dresses regularly over a relative short period of time, it was possible to analyze her body of design work and place it in context of the period. The *Official Gazette of the United States Patent Office* was examined to collect her 97 dress patents, which were all filed between March 1941 and August 1944. While she also patented a few designs defined as “dress ensembles,” these were not included in this study in order to control the number of possible variables. In addition, her patents cover a period of time when designers went from relative design freedom within their target market to the fabric usage controls of Limitation Order L-85 during WW II. The purpose of this study was to analyze McCoy’s patents to understand her overall design style, to develop a system to evaluate the design details, and to examine the timing of her patent submissions relative to seasonal showings during the period. Finally, examination of the design details made it possible to analyze changes in the designs before and during World War II.

**Brief Background on Marion McCoy and Carlye Dress Corporation**

Carlye Dress Corporation was founded in 1938 in St. Louis, Missouri, and was one of a significant group of St. Louis junior wear firms. In the mid-1930s, St. Louis developed as the premier junior wear market outside of New York City, and indeed even eclipsed New York for awhile (Mestres, 2009). Carlye dresses sold across the country in what would be considered a mid-price range for the time, retailing from $14.95 to $25 (Figure 1). Marion McCoy worked as head designer for Carlye Dress Corporation from early in the company’s formation in 1938 until 1945. She left Carlye in mid-1945, and moved to Los Angeles to start her own company, Marion McCoy Originals, which opened in October 1945 (“Marion McCoy forms,” 1945). As head
designer at Carlye she also had a number of designers working under her, although there is little record of how many. Some were occasionally mentioned in *Women’s Wear Daily* (WWD) or the *St. Louis Retailers Market News* when they either joined or left the company.

![Figure 1. Woodward and Lothrop advertisement for a Carlye dress, retailing for $19.95.](image)

The color is described as red butterflies on either a black or navy dress. Woodward and Lothrop (1942, January 21). *The Washington Post*, p. 5.

All 97 of McCoy’s dress patents were filed during her time with Carlye. Carlye Dress Corporation certainly had concerns about protecting their original designs. Their membership in the Fashion Originator’s Guild of America had provided one system to aid in protecting their designs. They also participated in a unique style protection service that existed in St. Louis. However, when the FOGA lost its case in the Supreme Court and was declared in restraint of
trade, Carlye took out a full-page advertisement in *Women's Wear Daily* announcing that they planned to “protect Carlye designs with U. S. Patents.” They continued to state an intention to “prosecute infringers of our design patents to the full extent of the law,” and to refuse to sell to any retailer discovered to be selling copies of their dresses (“A startling new style,” 1941). They appear to have supported McCoy in the process as head designer, as she began to patent regularly each season. In fact, the first group of four dress patents in her name was filed on March 27, 1941, and granted April 29, 1941, a relatively short turn around time. Of her 97 patents, 26 were in 1941, 29 in 1942, 25 in 1943 and 17 in 1944. McCoy’s patent record of designs thus offers an opportunity to examine the work of one ready-to-wear designer, working in the wholesale market, and at a moderate price point. Because Carlye, labeled “Carlye Originations” in the dress, was a well-known name in junior dresses, there were also advertisements that verify the actual production and timing of some of the designs, as well as slight variations that were made on the patent when produced.

**Examining the Patents and Creating the Database**

Designers did not usually seek patent protection for an entire seasonal collection, but rather those designs that represented “most clearly” the new trends (Valentine, 1941). Thus, for example, in a designer’s collection of fifty dresses, he or she might file for patents on 10 – 15 per season. McCoy did seem to follow that thinking, as she generally filed her patents in groups that added to those totals for a season. The largest was a group of fourteen filed on July 31 and August 4, 1943, presumably for the Fall season. Filers had the option to choose 3 ½, 7 or 14 years of protection. All McCoy patents were filed for a 3 ½ year period, certainly more than enough for a seasonal fashion item. All patents had a front and back sketch of the dress, with little additional explanation, which was intended to be all the support needed on a design patent.
The only additional explanation in some cases was an enlarged drawing of one aspect, such as a trim detail.

To organize the study, a database was created to break down the components of the designs into quantifiable elements. It was organized in Excel, with columns for each design element and arranged by seasonal grouping and in chronological order. Many patents were submitted as a group on a single day, and often a second group was submitted anywhere from a few days to a week or two later. It was assumed that these were for the same season and were grouped accordingly in Excel. For example, in 1944, six patents were filed on March 24, and 5 filed on April 8. Again in 1942, only one was filed on June 23, but an additional 9 were filed on July 3, and then one more on July 11. These were grouped and considered designs for the a single season. The design elements that were analyzed were style lines, trim, and silhouette details that could be determined by visual representation of the dress on the patent. These included sleeve style, waist placement, bodice and skirt fullness, neckline shape and surface designs. In addition, an initial review of all the patents indicated that many had appliqués as surface design, so this was included as one of the data fields. Some design components could not be exactly established. For example, the measured circumference of the skirt could not be determined, but a general classification of the fullness of the skirt could be recorded. In addition, changes in distribution of fullness could also be included. Some skirts were clearly depicted with even distribution of flare the whole way around, while others were gathered and full in the front only. Clear changes in quantity and/or distribution of fullness, for example, would suggest design changes in response to the L-85 regulations. A category of “other” was used to note additional decorative details.
What the Patent Data Reveals

To analyze McCoy’s style, design elements of each patent were quantified and then calculated as a percentage of dresses with that element out of the total patented designs. Typical elements of McCoy’s designs included full skirts all the way around the body (39% of the dresses), and full front skirts with A-line backs (25%). Other skirt shapes were a mix of A-line with some flare, pleated, and a total of only 4 straight skirts. Eighty percent had some sort of button closure (full front, back or bodice only), while 60% had a jewel neckline. Other details included patch pockets on 11%, and peplum variations (10%). In fact, 41 (42%) of the designs had some type of pocket, including slash pockets, and draped pockets that were part of the skirt fullness. An appliqué on one dress may also be a small pocket, but it is difficult to tell for sure on the sketch.

McCoy preferred short and three-quarter length sleeves. Only 7 of her 97 patented dresses had long sleeves and she did not patent any sleeveless dresses. While all her dresses were fitted through the waist, as were most dresses of the period, McCoy alternated between dresses fitted at the waist with either a set-in waistband or bodice yoke (52 patents), and those fitted through the waist, but with an accent seam at the hip, either through use of a hip yoke or an extended bodice line (31 patents) (Figure 2). Together these represent 85.5 percent of the patents. The remainder had either a combination of elements, a continuous princess line with no horizontal seam at either waist or hip, or the appearance of a two-piece dress with jacket and skirt (Figure 3). While it was occasionally difficult to determine on some patents, at least 10 had this bodice/jacket effect. To identify it as such for the database it had to have a jacket hem that appear to flare away from the skirt, and a center front closure. It was apparently sold as a single unit with one price. In one advertisement, a similar Carlye design was described as a “2-piece
Figure 2. A dress with in-set waistband and leaf appliqué (left), and a dress with fitted bodice, dropped waistline and parrot appliqué, that also includes radiating trim or stitching at the neckline (right). (U.S. Patent numbers 134,223, 1942, and 128,921, 1941).

Figure 3. Marion McCoy patent for a two-piece dress, designed to look like a jacket and skirt. (U.S. Patent number 133,244, 1942).
dress” (“Mandel Brothers,” 1943). In another it was also described as two-piece, but with the added description, “skirt hung on a bodice to keep that hemline straight” (Figure 1) (“Woodward & Lothrop,” 1942, p.5).

A unique design detail of McCoy’s dresses is trim radiating out from, and around the neckline, either as pin tucks or as added ornament, one of which was described in an ad as “nailhead studs” (“Mandel Brothers,” 1941). One dress has 18 lines radiating outward. She patented 7 dresses with this detail. Marion McCoy’s most distinctive design detail was appliqué. Just over one-third (36%) of her patented designs were created with appliqué decoration, including flowers, bows, umbrellas, and cockatiels (Figure 2). The use of appliqué was a detail found on other designs of the time period, although McCoy’s frequent use of certain motifs made hers unique. A search of Women’s Wear Daily and the Retailers Market News (a St. Louis trade publication) suggests the source for some of her design trims and appliqué ideas. Rather than going to Paris for inspiration (something not possible after the U.S. entered the war), McCoy traveled to Mexico and South America for inspirations. In fact she visited South America at least twice before WW II, in 1939 and 1940. A notice in Women’s Wear Daily describes her interest in new colors, new silhouettes, and interesting details of line and ornamentation (“Marion McCoy en route,” 1940). In summer of 1943 she visited Mexico, with an eye toward additional inspirations for color and decoration. According to the Retailers Market News, she came back with color inspirations, embroidery motifs, ric-rac trims and ideas for yarn embroideries (Figure 4). Another inspiration drawn from Mexico was for specific types of fabrics, but the patents do not provide any information on fabrics or trim materials. Although her appliqués would appear to be her original design, at least a few seem to have possible inspirations from other designers. In September 1941 and January 1942, McCoy patented designs featuring lobster appliqués. She
may have been inspired by Elsa Schiaparelli, who famously designed a dress, in collaboration with Salvador Dali, which featured a large lobster on the skirt. McCoy’s designs were patented roughly five years after Schiaparelli’s Surrealist dress (Philadelphia Museum of Art, n.d.). This may seem like a long time lapse, so it is difficult to be sure of it as an inspiration source. It was, however, a widely publicized design. Some appliqué patterns seem clearly drawn from her travels to South America or Mexico, including tropical birds and flowers. Rows of ruffles can also be seen on several dresses, around the neck and in skirt tiers. Unfortunately, it is very difficult to determine how the appliqués were constructed or from what type of materials. Some appear to be separate pieces that are applied, while in one of the few advertisements that has a photograph rather than a drawing, it appears to be actually stitched into the fabric. Perhaps she used both methods.

Figure 4. Marion McCoy dress with ric-rac trim around the neck and in chevron pattern on the skirt. (U.S. patent number 137,748, 1944).
Protecting the Patent Designs

Carlye Dress Corporation vowed to protect the patents in the court system in their 1941 advertisement, but that may have been easier said than done. The courts very seldom upheld dress patents as protectable. The *Official Gazette of the United States Patent Office* recorded hundreds of patent infringement suits in the early 1940s. Timing of the patent with both production and arrival in stores was crucial. In addition, many failed on appeal because they were deemed to “lack invention,” a crucial component in a valid design patent (Mary Muffet v. Loma Dress Co., Inc., 1941). The company, with both McCoy and Carlye listed on the suit, filed action against 2 different dress manufacturers for infringement of 5 different patented dresses. All were filed in December 1942. It is not possible to state the outcome, as there is no record in the Gazette, nor any indication that the suit continued on to the appeals courts. Many cases were settled out of court. However, of the 5 patents they filed suit about, three had appliqué designs (Figure 5). The other two had trim in parallel lines or bands along edges. Examination of the patents would suggest that appliqué and other trim features were the elements considered most protectable. For example, several of McCoy’s patent dresses have the exact same dress body, including both silhouette and seaming details, but different appliqués or other trim detail, thus the original element on each is the decoration.
Adjustments for War Regulations

McCoy’s first patents were filed in March 1941 before the United States involvement in World War II, and the last patents were filed in August 1944, during the war. Her patent record thus offers an opportunity to examine a body of design work for changes before and during enforcement of the Limitation Order L-85. This order specified allowable width and length of apparel, design details and other shape and trim elements. The maximum sweep of a hem for daytime, non-wool dresses or skirts was 78 inches, and 72 inches for wool. Wrist circumference was limited to 14 inches, while overall dress length, measuring from neck to hem was 43 inches (depending on size category, misses, juniors, etc.). Balloon, leg-of-mutton and dolman sleeves
were not allowed. Belts were to be no more than 2 inches wide if they were a separate component. This did not apply to a set-in belt or waistband, the type of band on McCoy’s dresses. In addition, peplums were not allowed.

To evaluate any design changes made in compliance with the regulations, McCoy’s patents were divided into pre- and post-limitation order. The design elements were then identified as before and after to determine if there was a significant increase or decrease in either specific design details or in overall silhouette. It cannot be known for sure which of McCoy’s designs were conceptualized before the L-85 regulations were released in April 1942, or what fabrics were intended (General Limitation, 1942). McCoy did use wool, very often wool jersey and what was described in one advertisement as “wool suiting jersey” in addition to cottons and other materials (“Mandel Advertisement,” Nov. 4, 1942). The order was effective immediately for any wool garment, and June 15 for other fabrics. There were 6 patents submitted on April 11, 1942, 3 days after the regulations were published, but fabric is unknown. It was thus decided to make a filing date of July 1 or later the start date to examine patents defined as designed after the order. This equaled 39 patents pre-limitation and 58 after the order.

There is a visible shift in silhouette after the Limitation order went into effect, although there is less clear change in surface design and other details. Skirts were narrower in circumference, and many of the full skirts from 1941 and early 1942 became skirts with full fronts and A-line backs by late 1942 (Figure 6). Beginning in 1943, partially pleated fronts with
A-Line backs are also seen. By 1944, McCoy’s designs begin to feature straight, narrow skirts. The presence of A-line skirts increased by 29%. Interestingly the use of patched pockets increased slightly and there was a 10% decrease in dropped waistlines. While the circumference of McCoy’s hems changes over the course of World War II, the length of the skirt does not appear to have been affected, as evidenced by the patents. However, the skirt lengths of the earlier dresses appear to certainly be within the length limits of the regulations, so perhaps no adjustment was necessary. Sleeve design was not affected by L-85 for McCoy, as none of her designs pre-limitation order had any of the banned sleeve styles. The only one of her designs that did not have a set-in sleeve was a short extended cap sleeve from 1944. Many of the sleeves throughout the 4 years of the patents appear to have tucks or darts in the cap to emphasize a
padded, extended shoulder silhouette that was popular in the late 1930s and through the war. However, they are not nearly as wide as a leg-of-mutton sleeve. One other design detail that appears on dresses both before and during the war regulation period is the peplum. While the order specified no peplums as it was considered a detail that was an unnecessary use of fabric, in McCoy’s patents, there are six dresses with peplums in the years of the L-85, while there are only three prior. Most are very short, but they are quite full and gathered. It is unclear whether this would have been considered a violation of the limitation order, or possibly allowable as part of a one-piece dress.

**Seasonal Groups and Timing**

When observing the patent filing dates, they certainly appear to be grouped by season, but it is not clear whether the filing occurred before or after the line was shown. It would perhaps make sense that only dresses that sold well during the market weeks would be worth the time and expense to patent. This would also explain the relative close timing between patent date and season in some cases. The largest group of patents submitted in a single season was 14. Some groupings were as small as 4 or 6. McCoy filed a portion of patents within a month or two, after which there would be a break from filing. She did not file any patents in the months of February, November, or May. There was of course a lag time between the filing of the patent and the granting of the patent. Although much longer today, at the time it generally took on average one month, and sometimes it was less. The longest lag was about six weeks. This short time frame was critical to ensure that the patent was officially granted before the dress was actually on the market.
It appears that timing was such that there could be less than a month between when the
dress patent was granted and when the merchandise arrived in stores. This would lend support to
the possibility that only dresses that sold well were patented. For example, a McCoy dress patent
(129,883) filed September 19, 1941 and granted October 7, 1941 was advertised in the *Chicago
Daily Tribune* on November 4, 1941, with a minor change from the patent to shorter sleeves
(Mandel Advertisement, Nov. 4, 1942). Another, patent 134,246 was filed Oct. 8, 1942, granted
November 3, and advertised on November 21, of the same year (Mandel Advertisement, Nov.
21, 1942). Both of these advertisements were for Mandel Brothers, considered a leading
department store in Chicago, located in the then fashionable shopping area along State Street.
The timing from original patent filing to store delivery suggests a relatively tight timeline, at
least for these designs. Interestingly, a second Carlye dress in the latter ad has a raised waistline
and surplice bodice, styling unlike any others shown in the patents. It does however have
appliqués on the skirt. While McCoy certainly did not patent all her designs, there were also
other designers working under her who may have created different design variations.

The timing of seasons and seasonal presentations appears to be slightly different than
current practice. Not only were line presentations closer to the selling season, there were
showings for additional seasons. In a *Retailers Market News* advertisement, Carlye Dress
Corporation announced presentation of their summer collection to buyers in three cities: January
24th in St. Louis, January 30th through February 4th in Chicago and February 7th in New York
City. The announced opening dates for the fall season were generally late May and early June in
St. Louis. However, it is not consistent, as some market week announcements for fall were listed
by other companies as July and even early August (See *Retailers Market News*). It is likely that
market weeks varied depending on locale of the different garment centers. Finally, each patent
grouping reveals a portion of McCoy’s body of work for a season and “McCoy” design elements such as appliqué, were consistently included in each season over the entire time period.

**Summary**

Dress patents provide a unique opportunity to examine a single designer’s body of work that would otherwise be impossible from either advertisements or from those random garments that survive in historic collections. In the case of Marion McCoy, it is a window into the work of a ready-to-wear designer working for a junior wholesale dress firm, whose name would otherwise be little known, because like most wholesale designers of the period, it is not on the label. This group of patents also allowed examination of style changes over a period when there were critical fashion modifications that were essential due to limitations enacted as a result of World War II. While there are certainly things the patents cannot reveal, such as fabric and trim material or colors, they can offer insight into design elements that one designer used consistently. The patent groupings may also be a potential tool for dating garments in collections. There are other avenues that can be explored in the future to supplement this research, in particular a search of historic dress collections for extant garments and a more exhaustive search of newspapers and fashion publications for Carlye advertisements. An ability to evaluate color, fabric and construction processes would deepen the analysis of McCoy’s work, in particular, the type of materials and applications used for the appliqués. Finally, an ability to evaluate color will lend an additional opportunity to evaluate her use of South American and Mexican influences.
References


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Mandel Brothers Advertisement (1941, November 4). Chicago Daily Tribune, p. 3.


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