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Wednesday, April 04, 2012

Creative copyright deal benefits pooch

By Kathryn Hayes Tucker, Daily Report



(Photo courtesy of Tori LaConsay)

East Atlanta billboard by artist Tori LaConsay.

STORE LOCATOR • CUSTOMER SERVICE • ORDER
H&M LIFE • LADIES • MEN



Door mat £12.99 £14.99

(File Photo)

H&M doormat product from catalog

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It is possible that no lawyer knows better right now the legal potential of Facebook and Twitter than Atlanta intellectual property attorney John Seay. He recently negotiated a creative settlement for East Atlanta artist Tori LaConsay with retail giant H&M Hennes & Mauritz over a simple design for the slogan, "You look nice today."

"It is ridiculous to see the power of social media," said Seay, who has fielded calls from news organizations around the world in the past three months since the dispute erupted online. "My favorite was Romanian State Radio." Others included the BBC, London's Daily Mail and newspapers and broadcast organizations across the United States.

The settlement includes an undisclosed amount of cash for LaConsay, Seay said, as well as charitable contributions from H&M, the Swedish retailer known for high fashion and low prices. It began a U.S. invasion a decade ago with a first store in New York and is now a presence in regional malls around the country, including Atlantic Station in Atlanta.

H&M agreed to give away its remaining stock of floor mats, towels and other items bearing the "You look nice today" message LaConsay claimed she created. And H&M offered to pay one bill that was particularly important to LaConsay—and a big part of why the story drew so much international attention.

"In a gesture of kindness, H&M has offered not only to settle this matter with me, but also with the public at large, by donating \$3,000 towards a very expensive surgery for my best friend's pet, a sweet rescue dog named Fred," LaConsay said in announcing the settlement on Regreetsy.com, the website where her fans first began talking about H&M's sales of items that looked like LaConsay's design.

The conversation moved quickly to H&M's Facebook page, which has more than 10 million fans, as well as Twitter and other social media sites.

The story began with very old school media, a billboard, in 2008. "East Atlanta Village is one of the most loving, tight-knit neighborhoods I've ever known. The residents are like family," said LaConsay in one of her blog postings. "On December 14, 2008, I painted a love letter to my neighborhood. The sign was located on the main thoroughfare on Flat Shoals Avenue. On one side of the sign, I painted, 'You Look Nice Today' followed by a little heart. This was on the side of the sign that I thought people would see on their way to work. On the other side of the sign (the side I thought people would see the most on their return back to the neighborhood) I painted, 'I'm So Happy You're Here' with another little heart. It was a small gesture that I genuinely hoped would make my neighbors feel good."

Fast forward to January of this year. LaConsay had moved to Alabama. But her old neighbors began alerting her online about the H&M products bearing her design. She emailed the company and got this response, according to her blog posts: "We employ an independent team of over 100 designers. We can assure you that this design has not been influenced by your work and that no copyright has been infringed."

The answer posted on LaConsay's blog was "Really?" followed by a photo of the original billboard and H&M's products—which appear identical.

H&M's corporate office did not respond to calls from the Daily Report about the matter. LaConsay's blog did capture some of the company's Facebook responses. One said, "We are looking into the situation concerning the issues many of you have raised and will contact Tori LaConsay for further dialogue."

Seay said he worked with a New York law firm, which he declined to name, to work out the settlement. He never filed a lawsuit. "Due to the intricacies of international copyright law, we would have had to file overseas," he said.

LaConsay described the settlement as "good news for everyone." She posted that "H&M contacted my attorney to extend the olive branch and work towards an agreement that I am truly pleased to be a part of." She said the agreement "respectfully honors the true intent behind the original artwork, offering a message of love, compassion and community." She said in a later post that the whole episode persuaded her to move back to her East Atlanta neighborhood.

She added, "Additionally, I am heartened and vindicated in my belief that given the chance and support, that people want to do the right thing. H&M, you've done the right thing. I thank you, and Fred thanks you. You Look Nice Today."

Seay said he is now working with LaConsay on legal matters that are more a part of his regular practice: licensing opportunities for her work. And he did offer one more important update.

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