
YOU NEVER FORGET (DINOSAUR) GETTING RIPPED OFF

Words Jen Selk Photography Fiona Garden

I hate it when people copy me. I accept there is some aspect of mimicry in almost everything we do these days, but every now and again, most of us get the feeling that someone is ripping us off. That's the current plight of a Vancouver-area graffiti artist whose work may have been snaked by several online shops and sellers. Back in November of 2005, ION did a little story about Vancouver DIY artists and one of the artists featured was the never forget (dinosaur) guy. If you live here, you may have seen his tag around the city. Last month I received an email from the artist (who goes by "never forget (dinosaur)" when discussing this aspect of his work) asking for our help. See, while innocently surfing the internet recently, he came across a number of products bearing the never forget emblem being sold by and through online companies. And like any right-minded artist, his initial reaction was, "These guys are totally ripping me off."

The first company the never forget guy—let's call him NFD, since like most street artists, he prefers not to reveal his real name in print—discovered was Bustedtees.com, which is currently selling shirts emblazoned with a cartoon dinosaur and the words "never forget". Sound familiar? The design is not an exact replica of the aforementioned tag, but the concept is the same. In the words of NFD himself, "this company... has obviously stolen my tag, cleaned it up and are now making a profit off of it."

I looked at the tee, but wasn't fully convinced. However, a little research turned up the fact that lots of online distributors are making coin off the never forget concept. Zazzle.com has got one that has the dinosaur, the slogan and an American flag thrown in. At CafePress.com someone is hawking buttons and t-shirts that feature exact replicas of the Vancouver dino-tag. Exact, as in, it looks like they used tracing paper.

NFD says, "It's pretty infuriating...The person who submitted the image to CafePress actually stole my tag. It was taken from a photograph I found on a couple of public domain photography sites so they are actually the lines I made." I can't say if that's true for sure, and I wouldn't be able to tell something like that just by looking, but then again, it's not my art, and photographs of graffiti are certainly easily accessible on sites like Flickr.com.

Now, before you start thinking this story is one-sided, I should tell you that we did do our research. I emailed BustedTees back at the beginning of September asking when they started distributing the shirt, where the design came from, and if they were aware that a Vancouver artist was claiming to have created the design they were and are selling. It took a little while, but they eventually replied. Someone named David Cho, who didn't define his position at the company or the capacity in which he was commenting, sent along a short and not particularly satisfying message.

According to Cho, BustedTees started selling the never forget tees in March of 2006 after having received the idea, submitted by a user, in January of this year. "The design itself was done in house by our head designer," he wrote.

"We had no idea that our shirt was similar to anything done by anyone else," continued Cho. "Any similarity is pure coincidence. If someone owns the copyright to the design we print that we were unaware of, we encourage them to submit proof of this ownership so that they can be compensated properly. If there's anything else we can do to help, let us know."

Now, I'm no lawyer, but it's my understanding that you don't need to register copyright on your art. There are two kinds, registered and unregistered; but basically, if you write, paint, or create something, you own it. Copyright exists automatically. So I wondered what would constitute "proof" in this situation.

After receiving that initial response from BustedTees, I emailed Cho with follow up questions. Do users who submit ideas to your company do so anonymously? Will you reveal the submitter's identity? How much was that person compensated? Would Bustedtees consider pulling the shirt from their line? Etc. I also attached a copy of the never forget article we published in November 2005, to show that the concept certainly did exist before it was submitted to BustedTees. Would that serve as proof?

I thought I was opening the door of communication, doing a good deed for a local artist, being a good concerned citizen. Maybe I was being naive. Since sending that email, I haven't heard a peep from David Cho, nor from anyone else from BustedTees.

Speaking of not returning requests for comment, CafePress and the private seller behind the never forget products on their site have also largely ignored repeated requests for comment. Despite having a published Intellectual Property Rights Policy that states, "We encourage intellectual property rights owners to contact us if they believe that a user of our service has infringed their rights," and despite my sending multiple emails beginning on September 25, 2006, I couldn't get a response from the company's Intellectual Property Rights Agent, Candice Carr. At first I thought I hadn't jumped through the right bureaucratic hoops with my messages, then that the company was possibly so busy with intellectual property rights infringement complaints they just hadn't had time to reply. But mostly I figured they were ignoring me.

Eventually, just before press time and after threatening to run the story regardless of if they provided any input, I did receive a response from PR Manager Marc Cowlin. But like all responses about this issue so far, it wasn't very satisfying. "If the artist in question feels that his rights are being infringed upon, we have a quick and cost effective manner for dealing with this issue. He can submit a notification [adhering to various policies]... We can then address his concerns," he said.

I wasn't looking for anyone to admit any copyright infringement, just for a little insight into how they might deal with this specific situation. But me not being the primary person with the complaint seems to have stalled the process. Cowlin didn't address or answer a single one of the questions I posed (which were similar to those asked of BustedTees). That said, as mentioned, CafePress merchants are private sellers (like on eBay). Cowlin did promise to pass my questions onto the seller, but by press time in late-October I had yet to receive any response.

So what's a poor Canadian street artist to do? In his first message to me, NFD said, "I know this is something I have to expect due to the fact that when it comes to graffiti or guerrilla art you do not have the opportunities to copyright



your work, however it is still somewhat insulting, especially to see my image manipulated in such a hideous way. The childlike depiction of the dinosaur is crucial in the conceptual idea surrounding the work. This shiny hip version [by BustedTees] totally destroys the context and concept."

He's upset, but he doesn't feel like he has a lot of rights. Graffiti is, of course, illegal, but does that negate someone's copyright? And since when should anyone expect that they're going to be ripped off? It raises a lot of issues about the nature of these anonymous user-content websites and companies. It's sad, in a way, NFD was careful to point out that he's not angry about this situation so much as upset. "I don't mind the image and message being experienced by more people," he says. "But I am extremely disappointed that it had to be mutated so much... what with the cartoon dinosaurs and clean fonts and such. I am not quite sure about the whole authorship principle. It is extremely unstable for me. This is the reason I make free art... I'm conflicted in how to deal [with this]. Mainly I am just sad about the whole business. It is a shitty feeling to become part of the culture industry in such an involuntary way."

NFD has begun to consider getting legal representation to get the whole mess sorted out. His finances are limited, so he's not likely to have an easy time of it. "I am a poor university student who could really use the \$19.99 per shirt BustedTees is making off me," he says. He's planning to screen and sell his own "authentic" never forget shirts to help cover his legal costs. He's also considering revealing his identity, even though he fears it will open him up to persecution. "I think it might be time," he says.

It's hard to guess how much good any of this is going to do. Even if the various companies already distributing never forget products do eventually stop, plenty of money has already likely been made, and the concept has already been prolifically shared. That's not quite what NFD had in mind when he first took his idea to the Vancouver streets.

Want a never forget (dinosaur) shirt made by NFD himself? Wanna send the guy some support? Email him at neverforgetdinosaurs@yahoo.com