

REALITY BITES - Brand Protection, Reality TV Style

August 22, 2011 by Sheppard Mullin

THE SITUATION IS ASKED NOT TO COVER HIS SITUATION WITH ABERCROMBIE ANYMORE

Abercrombie & Fitch issued a press release offering The Situation (of MTV's The Jersey Shore fame) "substantial payment" to *stop* wearing Abercrombie's clothes. The company's main concern is brand dilution. The press release explains the company is worried that The Situation's "association with our brand could cause significant damage to our image" and that this association "is contrary to the aspirational nature of our brand, and may be distressing to many of our fans."

Whether this was a clever public relations strategy to generate publicity about the brand during the important back-to-school season or whether it is a legitimate branding issue that had something to do with the dip in Abercrombie's stock following the press release remains unclear. What is clear, however, is that people are talking about it.

Common wisdom is there may be no such thing as bad publicity; however, it cannot be ignored that Abercrombie's stock fell sharply the day following the press release.

THE KARDASHIAN – SEARS MARRIAGE CAUSES THE GIRLS TO END UP IN COURT

Kim Kardashian filed a [lawsuit](#) in the United States District Court for the Central District of California against Old Navy for using a model/actress that allegedly looks like her and calls her to mind in its commercials. Some speculate that the reason Kim filed the suit was to protect her apparel licensing deal with Sears because Old Navy's lookalike campaign could allegedly harm Sears' Kardashian Kollection campaign, which hadn't yet launched at the time she filed suit. Others speculate that the real reason is because the lookalike model/actress is now dating Kim's ex-boyfriend and football player, Reggie Bush. Either way, it will be interesting to see whether Kim can prevail in her claims for unfair competition under the Lanham Act (15 U.S.C. § 1125-a), and violations of the common law and statutory rights of publicity.

Soon after the Kardashian Kollection debuted at Sears, handbag designer Monica Botiker sent a cease and desist letter to the company, alleging a faux leather handbag from Sears' Kardashian Kollection resembles one of her bags. Sears promptly pulled the Kardashian bag from its website. Given the Kardashian's fiercely protective stance over their brand (which is entirely appropriate and smart), it is interesting to see them on the other side of the fight. If a fashion company wants to be taken seriously when it wields the trademark laws as a sword, it should take care not to unfairly encroach on and have respect for others' rights.