

Sometimes Lawyers are Cool

By Reg P. Wydeven
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Early on in every lawyer's career we learn how to write a cease-and-desist letter, or as our office calls them, 'nasty-grams.' This is a letter that is written to a person or organization that is doing something that they shouldn't. The letter informs them that they should cease doing what they shouldn't and not ever do it again. If they do, they likely will get sued.

I've sent cease-and-desist letters to neighbors asking them to: stop letting their dog poop in our client's yard; take down their fence/shed/swimming pool/swing set/landscaping that is over the lot line; and mow their lawn because it has become a mouse resort.

Cease-and-desist letters are often effective because the offending party may not know they are doing anything wrong and they simply stop. Sometimes they work because the violator knows they are doing something wrong and were just waiting until someone called them on it.

Sometimes they don't work because people either don't believe they're doing anything wrong or they just don't care. So that's when the client decides whether they want to drop the issue or sue the wrongdoer.

Most cease-and-desist letters are pretty boring: 'stop what you're doing or else...' But every once in a while an attorney has a little free time and comes up with something creative. The attorneys at Netflix did exactly that.

The movie streaming juggernaut also offers some of its own original content. One of their biggest hit shows is 'Stranger Things,' which is set in a small town in Indiana in the 1980s. The series focuses on Joyce Byers whose 12-year-old son, Will, goes missing. Byers launches an investigation into his disappearance with local authorities, but as they search for answers, they encounter 'stranger things.' The characters unravel a series of extraordinary mysteries involving secret government experiments, unnerving supernatural forces, and a psychokinetic girl.

The show was created by brothers Matt and Ross Duffer. Well, two other brothers, Chicago's Danny and Doug Marks, are apparently big fans of the show. The Markses opened up a pop-up bar that's theme was 'Stranger Things.' While the receipt of a cease-and-desist letter from Netflix's legal department wasn't at all surprising, the contents of it was.

Instead of being one of your run-of-the-mill 'knock it off' letters, Netflix's letter was littered with references to the show. For example, it opened by saying, "My walkie talkie is busted so I had to send this note." The lawyer was almost apologetic for giving the Markses six weeks to stop using the 'Stranger Things' theme, saying "Look, I don't want you to think I'm a total wastoid" but "I don't think we did a deal with you for this pop-up."

Instead of the usual sternness, the letter was flattering, saying things like, "You're obviously creative types, so I'm sure you can appreciate that it's important to us to have a say in how our fans encounter the worlds we build."

Netflix's letter did maintain a common thread of all cease-and-desist letters – a threat of repercussions if the Markses didn't change their infringing ways. Only instead of warning the brothers that they may end up in court, Netflix threatened something far more despicable: "don't make us call your mom."

The letter was lauded for being a creative and an even more effective tactic to achieve Netflix's desired result than a traditional cease-and-desist letter. The letter, and the popularity of the bar, have generated a ton of publicity for 'Stranger Things.' Oh, and coincidentally, Season Two of the show kicks off October 27.

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