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[Iron-clad Liability Protection for Idea Submissions?](#)

Posted on December 9, 2010 by [Joy S. Newborg](#)

Several bloggers and commentators have been critical of the Travel Channel about its website soliciting people to submit their ideas for what could possibly become a new hit show. As pitching television show ideas has become a complex, involved and costly process, should one really blame them for trying to streamline the process? If people are willing to share their ideas for no compensation, are they not free to do so?

The comments seem to chide the Travel Channel for setting itself up to be sued for copyright infringement, idea theft or breach of implied contract (the current trend when copyright claims fail). Which did in fact happen when one of the idea submitters claimed his idea was used without compensation. [Cardillo v. BBC, NBC Universal and the Travel Channel](#). Cardillo submitted his idea for a television show on the Travel Channel's website. His idea was to follow his family as they traveled down to South America in a Winnebago. The idea was described in no more than a few, very generalized sentences. When the show "The Great American Road Trip", which was a reality show competition involving seven families traveling across the country in recreational vehicles, aired on television, Cardillo claimed that his idea was stolen and sued.

However, the court sided with the Travel Channel and dismissed Cardillo's claims. In order to bring a claim of copyright infringement, Cardillo had to first register the idea for copyright protection. It is well known that an idea is not protectable under copyright law, just its expression. And even if he did register the two sentence description of his idea, it probably would have been futile as there is no shortage of more substantive lawsuits where the courts have not been able to find copyright infringement even where the creative work is much more extensive and idea copying more difficult to deny. See [Life-Line to the Lifeblood](#) for a few examples.

Even though it won the lawsuit, it appears the Travel Channel has decided to avoid future lawsuits and has taken down that portion of their website. Instead, I found the following disclosure:

"How do I submit an idea for a show or series?"

For legal reasons, Travel Channel cannot accept unsolicited ideas or material, and any unsolicited ideas, pitches or material will be returned or discarded unread. Travel Channel only accepts proposals from established production companies who have previously discussed their idea with a network development representative and been asked to submit a summary of the idea or who have received an RFP."



But should this really close the case on whether a studio or production company is able to host a website that solicits submissions of ideas, and limit its liability for lawsuits? If the website made it clear what the idea submitter can expect if he or she submits an idea, even if it is nothing - no compensation, no credit and no ownership - and if the submission is restricted to a short description, could it become feasible? Would it assist in avoiding such frivolous lawsuits from the Cardillos of this world?

I think NBC Universal's policy (as provided on their website, and below) may be heading in this direction. It takes a much stronger stance than the Travel Channel's policy above and leaves no room for doubt as to the consequences if anyone submits their ideas and creative work unsolicited:

“Submissions

While we are always happy to hear from you, it is NBC Universal's policy not to accept or consider creative materials, ideas, or suggestions other than those we specifically request. This is to avoid any misunderstandings if your ideas are similar to those we have developed independently. Therefore, we must request that you do NOT send to us any original creative materials such as screenplays, stories, original artwork, etc. Any communication or material you do transmit to the Site by electronic mail or otherwise will be treated as non-confidential and non-proprietary. Anything you transmit or post shall be deemed the property of and may be used by NBC Universal, or its affiliates, for any purpose, including, but not limited to, reproduction, disclosure, transmission, publication, broadcast and posting. Furthermore, NBC Universal is free to use and shall be deemed to own, any ideas, concepts, know-how, or techniques contained in any communication you send to the Site for any purpose whatsoever, including, but not limited to, developing, manufacturing and marketing products using such information. Disclosure, submission, or offer of any submissions to the Site shall constitute an assignment to NBCU of all worldwide rights, titles, and interests in all copyrights and other intellectual property rights in such submission. NBCU may edit, copy, publish, distribute, translate, and otherwise use in any medium any submission that you forward to NBCU and will own exclusively all such rights, titles, and interest and shall not be limited in any way in its use, commercial or otherwise, of the submission. NBCU is and shall be under no obligation to: (1) maintain any of your or any user's submissions in confidence; (2) to pay to you or any user any compensation for any submissions; or (3) to respond to any of your or any other user's submissions.”

So if a company were to use a similar disclaimer but in connection with a solicitation to submit ideas, could it be sufficient to avoid claims of copyright infringement as submitters give up ownership as well as claims of breach of implied contract as they would not have an expectation of being compensated for their ideas?

