



Jeff Geiger Counters

The Right Tool for the Right Job

By: Jeffrey Hamilton Geiger. Tuesday, July 24th, 2012

I **commented recently** on litigation involving **Maker's Mark Bourbon** and its distinctive red wax seal. Understandably, Maker's Mark did not want competitors to use red wax with their beverages as it would create a false association in the mind of the consumer and dilute the brand. And the **court agreed**. But at what cost? While I am not privy to the fees expended by the parties in the litigation, I suspect it was well north of six figures.

While the cost (at least for Maker's Mark) was likely well worth it, I turn evermore to Abraham Lincoln's admonition to "discourage litigation." It is with that in mind that I toast a "cease and desist" letter sent by an attorney for **Jack Daniel's** as reported in **The Atlantic** by Megan Garber.

Apparently, a fan of the beverage used as the cover art for his **novel** a label that looks similar to the label on Jack Daniel's. Rather, than instituting preemptive litigation or issuing over-the-top demands, the trademark attorney pulled back from nuclear Armageddon and, wait for it, sent a cheery letter asking only that the author not use the cover in any second printing of the book. That's it.

The bottom line: one-size-fits-all approaches work as well as **Henry Ford's** quip that "Any customer can have a car painted any colour that he wants so long as it is black." You've got a big tool box—use it.

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