

It's law eZine ...but not as you know it!

# LAW & DISORDER

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The Law & Disorder eZine attempts to provide legal information in an entertaining and amusing manner to help clients avoid predictable legal issues.

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## An Inspiring story for Prosecutors

Dear John

With crime rates falling, we Prosecutors have had to turn to our back catalogue of offences by ageing celebrities but with memories lapsing and witnesses dying the evidence in such cases can be questionable.

Should we just wait and hope that crime picks up, or should we press on and take what we can get?

P.

Dear P.

There is no patron saint of hopeless cases, but there are many examples of Prosecutors pulling some very unlikely convictions out of the hat.

For instance, during the Napoleonic wars a ship's pet monkey was shipwrecked on a beach in the North of England. The locals captured the monkey mistakenly believing it to be a French spy as it was dressed in military uniform.

The monkey was interrogated, tried, found guilty and hung.

In that case, the burden would have been on the Prosecutor to prove beyond reasonable doubt that the monkey had an intention to spy-no easy task.



Let us not forget the defence lawyer's task of taking clear instructions long before the advent of dedicated Animal Rights Lawyers.

All this, on a windy beach, with the constant chatter of the defendant in the background.

It is work like this which is an inspiration to Prosecutors everywhere.

Ed note: Years ago, I was asked to represent a defendant before a Magistrates Court. I calculated his legal aid contribution, and when I told him that he would need to contribute \$2.00 for my services, he decided to represent himself. He gets out next week.



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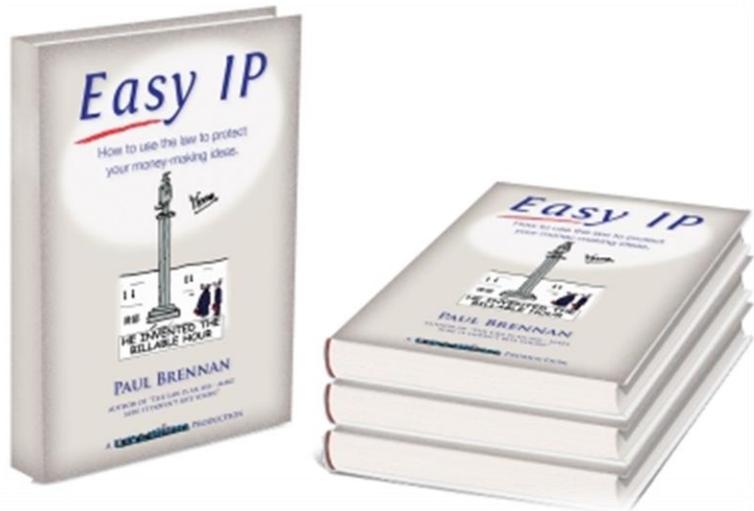
## Tone down your IP Threats

A threat is quick, involves little effort, does not commit you to any form of action, or expense, and generally is quite satisfying, especially if it is taken seriously. By the time the person being threatened realises that you are not going to take any further

action, it may seem too late to do anything effective about it, especially if there is some justification, and they have sensibly kept their head down.

However, if you threaten to sue someone for infringement of your intellectual property ("IP") rights you may receive a counter threat of an Unjustified Threats Action which can be just as satisfying and a useful response to rival businesses pushing their weight around.

The person being threatened can go further and demand an undertaking to cease such threats. Failing to provide the requested undertaking, can result in an application to the court for an injunction to stop any further threats being issued, or for a declaration that the threats are not justified. This could be accompanied by a claim for damages depending on how the threats were made as business could have been lost.



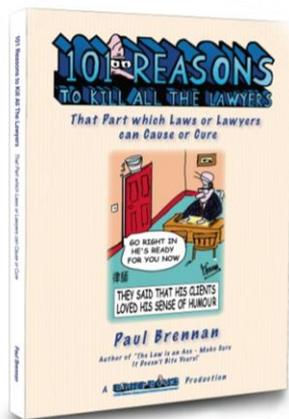
Therefore, it is not a good idea to make threats in IP cases unless you are sure that you have the IP rights referred to and are prepared to carry through and commence action without delay. Therefore, however incensed you are over the infringement of your IP, you will find your lawyer proceeding cautiously to avoid an Unjustified Threats Action. Less fun, but safer.

So if you receive a limp wristed notification from a lawyer that you have infringed their client's IP rights it does not mean that they are not serious. It just means that they are being cautious. It could still be followed by a court action.

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## Book Review by the Journal of the Law Society of Scotland



When asked, "Why 101 reasons", Paul Brennan, who is a practising lawyer, explained: "I didn't want to depress the entire legal profession by having 1,001." Having started life as a blog, this book combines cartoons, satire and anecdotes about our profession. Some of them may even be true. Almost without exception they contain something to make the more self-aware pause and reflect on how we have gone about our business.

Let's start with the introductory page. Lawyers, we are told, are thought to be arrogant, pompous, aggressive, tactless, confrontational, pedantic, expensive, unscrupulous, ruthless, negative, devious and slow. It is suggested that one of the main causes of stress in the profession is the difficulty many of us have in living up to these expectations at all times. One lawyer, who declined to be interviewed, confessed that on occasion he spoke to his staff in a normal manner: one client, who did not wish to be named, said that he found his lawyer "quite nice." O tempora, o mores. Rumour has it that some have turned to training organisations which deal with

medical receptionists because of their ability to generate aggression and ill will among patients with such minimal interaction.

Nonsense aside, this book will make you laugh out loud. Buy it for your waiting room; buy it for your lawyer friends, or just buy it for yourself. A treat.

David J Dickson

Books Review Editor

Journal of the Law Society of Scotland

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Disclaimer:

The content of the Law & Disorder eZine is to give you legal basics and in some instances included unashamedly to try and make you laugh. In law it is sometimes difficult to work out what is serious and what is just for fun. Therefore, if you plan to do anything legal, rely on your own lawyer's advice or instruct me to look at the particular facts of your case. Not only will I deny responsibility for the legal content but also for some of the jokes.

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