

# Hansel & Gretel Go Spec'ing

In which the Brothers Grimm's favorite siblings show you five ways to protect yourself and your script during this fall buying season.

**I**t's unclear if Hansel and Gretel would have made great screenwriters. Was Hansel good on structure? Did Gretel have a knack for endings? The Brothers Grimm were so sketchy. But what details we do have suggest that, if nothing else, the siblings would have made smart screenwriters.

Per the Grimms, when the young, naïve, and unagented duo ventured into the forest, they marked their tracks with breadcrumbs, the better to find their way home. Or protect their hot new spec script, as it were.

As the fall-buying season approaches and the forest of production companies looms, smart screenwriters will make like Hansel and Gretel, and cover their tracks.

Here are five tips for surviving spec season with your hard work and gingerbread house intact. Breadcrumbs are optional; common sense and paperwork are not.

## 1. WHATEVER YOU DO, DON'T SEND OUT YOUR SPEC SCRIPT

Yes, this advice runs contrary to the notion of something called spec season. And, yes, the unrepresented writer should heed it anyway. Unless, that is, the writer is itching to commit that most elemental of errors: mistake number one.

"Mistake number one is sending out the script without having first sent a query, and getting some positive response," says entertainment-law attorney Gordon P. Firemark.

The script that arrives at a production

company's suite without a prior, perfunctory dialogue exchange—"Hey, my script's about polar bears who play football. Do you wanna read it?" "Sure!"—is either going straight back to the sender or straight into the trash. The risk-adverse gatekeeper can't have it any other way.

"The two biggest factors that a development executive or a studio is going to consider when they're looking at a piece of material are: one, will people buy tickets to see this? And, two, are we gonna get sued?" Firemark says.

The right kind of query answers both concerns. It's specific enough to let the exec imagine dollar signs ("I've got that polar-bear sports movie we've been looking for!"), and unspecific enough to let the exec rest easier about litigation.

In short, the short query is the right query. "Mention it as a genre project," Firemark advises. "It's a one-liner: 'A bank robbery in a hair salon.'" Give away the idea, but as little of the story as possible. Remember, ideas aren't copyright-protected; story elements—characters, plot points, plot twists, etc.—are. Ideas, Firemark reminds, aren't even usually original.

"Query with the understanding that the company may very well have something similar already in production," Firemark says. "Better to find that out before they've read your script."

## 2. MAKE PAPER YOUR FRIEND

Whether you're querying by e-mail or snail mail (and, to avoid a botched con-

nection, find out which method your intended reader prefers), get your Hansel and Gretel on. Create a paper trail.

Save a copy of that outgoing e-mail. Get that outgoing letter stamped "Certified." Use companies such as MailTracking.com that promise a note when your e-mail is opened. (Even Microsoft Outlook allows you to request a receipt.) Offline, pay for the proof of delivery signature card that will be sent right to you—and your record-keeping file.

Firemark, for one, recommends snail mail over virtual mail: "I think it's probably better to have a written paper trail."

Whichever way you proceed, just be sure to proceed. It's smart to establish a timeline before diving into Hollywood's warm waters. Says Valerie Ann Nemeth, an intellectual-property attorney: "You do need to tie the access (of who had what) together." Nemeth suggests that you should always get a specific name to which you can address your script. If you ever do need to file a suit, "you have to be able to show that whoever you're claiming stole your work had access to it." Which brings us to perhaps the most important pieces of paper.

## 3. REGISTRATION AND COPYRIGHT

So, lightning struck, your query worked and you're asked to submit the full script. Before you plop the spec into a metal-clasp envelope, or attach it to an e-mail and hit send, run a system check.

Have you registered the script with the Writers Guild of America? (It'll cost you \$20 if you're a non-member, and you can regis-



*Transformers'* Alex Kurtzman and Roberto Orci protected their script by working with trusted associates.

ter it online at [www.wga.org](http://www.wga.org).) Have you marked your title page with a copyright symbol? (It'll cost you nothing.) And have you registered it with the U.S. Copyright Office? "It's a \$45 filing fee," Nemeth says. "It's not worth it not to do it."

All three steps are standard, elemental, and, to Nemeth, key. The copyright symbol establishes common-law copyright. WGA registration establishes your timeline, and paves your paper trail. Copyright registration does even more.

"If you do go into an infringement situation, you have all these options that you wouldn't have if you didn't actually have a copyright registration," Nemeth says. "It gives you the presumption of authorship, and it gives you the presumption of having a legitimate property that does belong to you." According to Nemeth, copyright registration makes you eligible for treble (triple) damages, should your grievance go to court.

Securing a copyright has always been a terribly tedious process: mail off your application, your \$45 check, a hard copy of your script, and wait.

But, as Sean Kennelly noted in this space last issue, this summer the Copyright Office will begin testing an online system (You can find out more at their website, [www.copyright.gov](http://www.copyright.gov)). The WGA has offered online registration for years.

#### 4. THERE'S A REASON AGENTS AND MANAGERS EXIST

You're good to go. Everything's dotted

and crossed and registered. One thing: the production company that's hot for your query wants you to sign a release and send it along with the script. So, should you sign on the dotted release line?

"My advice is don't sign this, don't send them your script," Firemark says, with the proviso: "Certainly not without consulting someone who can advise on the merits of the document." (Nemeth is just as wary.) Neither is fond of legalese turns of phrases that require the writer to, per one standard release-form paragraph, "waive and agree that (he or she) will never make any claim or demand or bring any action against you in connection with the use of the Screenplay."

The bottom line, according to Firemark: "You're promising not to sue if they develop something that is virtually identical to what you're presenting."

But if you don't sign, they won't read. So what a writer to do? "I think the aspiring newcomer in town, or even someone who's been around town for years, really ought to be focusing a good chunk of their efforts on finding representation," Firemark says.

Well, that sounds easy...

#### 5. RELAX

Lawyers are by their professional nature cautious. Blake Snyder is not a lawyer. He is a screenwriter (*Blank Check*, *Stop! or My Mom Will Shoot*), an author (*Save The Cat! The Last Book on Screenwriting You'll Ever Need*), a teacher/lecturer (at *Creative Screen-*

writing's Screenwriting Expo and Chapman University, among other venues), and, when it comes to things like spec season, an optimist.

"I just don't believe in people giggling as they run to the bathroom to write down your idea (and steal it)," Snyder says. "I just don't think it happens."

Although Snyder usually queries people he knows, he's gone the cold-call route, too (with a recent spec sale), and he advises his less-connected students to do the same.

"I tell people in my class to get out the *Hollywood Creative Directory*," Snyder says of the industry bible. "When you have an idea you think is worthy, e-mail a query, see what happens."

At the end of the day, a writer, Snyder believes, should be writing. "Yes, the good idea is gold, but I am less concerned as a writer about being stolen from," he says. "I also think that the idea of having to protect yourself is contrary to good creativity."

So keep your paper trail—and your focus. "If you have just one idea, you're in the wrong business," Snyder says. "You should have ideas pouring out of your head everyday, and this is just one thing that you're working on, and you can come up with six more."

That way you'll be ready for spring spec season. ☐



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