

Embertone's 2017 "Stranger Themes" Contest

OFFICIAL RULES

NO PURCHASE NECESSARY TO ENTER. VOID WHERE PROHIBITED OR RESTRICTED BY LAW OR WHERE REGISTRATION OR BONDING IS REQUIRED. YOU MUST BE EIGHTEEN (18) YEARS OF AGE OR OLDER TO ENTER THE CONTEST.

These official rules (the "Rules") govern your participation in the Contest, as defined below.

SPONSOR: The "Stranger Things" Contest (the "Contest") is sponsored and conducted by Embertone, LLC, 60 Caledonia Road #201, Asheville, North Carolina ("Embertone").

CONTEST PROCESS & TIMELINE:

(1) **FIRST STAGE – Theme Submissions:** Between March 7th and March 31, 2017 (by 11:59PM EST) create a Theme, as defined in Paragraph 1.1 below, using only a single device, instrument or voice, and submit it as an MP3 via: <http://www.embertone.com/strangerthemes/> (the "Contest Website").

Submit as many Themes as you like during that period. By submitting a Theme, you unconditionally agree to the terms and conditions set forth in these Rules, you are willing accepting these Rules as a binding and valid agreement with Embertone. Any person submitting a Theme shall be known as the "Contestant" (and in your case, we will sometimes refer to you in these Rules as "you" or "your").

(2) **SECOND STAGE – Adaptation Submissions:** After all Themes have been submitted, and between April 1st and April 30th, 2017 (by 11:59PM EST) (the "Arrangement Period"), choose your favorite third-party Contestant's Theme (you cannot select your own Theme) and create an Arrangement (as that term is defined below). Since this Contest is sponsored by Embertone, the Arrangement must

feature *at least one (1) Embertone instrument (for more information, go to www.embertone.com, and select “Products”)*. All Arrangements must be submitted via SoundCloud, below you’ll find all the details needed to submit.

ARRANGEMENT SUBMISSION GUIDELINES

Upload your arrangement to [SoundCloud](https://www.soundcloud.com) (please sign up for FREE if you don’t have an account) using this naming structure:

Embertone Stranger Themes: [Track Name] by [Your Name]
(without the brackets)

Put the following details in the description:

- The **Original theme number** AND **theme name** that you used
- Any Embertone instruments used
- Include the hashtags **#Embertone #Stranger Themes** (plus any other hashtags you want to use)

Send a public link to your track to strangerthemes@embertone.com. Email Subject **MUST** be exactly the same as your SoundCloud label:

Embertone Stranger Themes: [Track Name] by [Your Name]
(without the brackets)

You must submit your arrangement(s) by April 30th at 11:59 PM EST.

****Your arrangement(s) won’t be eligible unless you follow the directions above****

(3) JUDGING: Our judges will be looking for **musicality, creativity, production skill, technique and ingenuity**. Once the Contest closes on April 30, 2017, and then judging will begin. Judging will be completed by May 22, 2017.

(4) ANNOUNCEMENT OF WINNERS: The potential winners and runners-up will be announced on Monday, May 23, 2017 by 11:59PM EST. All potential winners are

subject to certain verification by Embertone, whose decisions are final and binding: if Embertone is unable to contact a winner or runner-up using the information provided by May 30, 2017 at midnight, the judges and/or Embertone may choose an alternate winner from the list of runners-up, which substitute winner will be announced the following day. A CONTESTANT IS NOT A WINNER OF ANY PRIZE, EVEN IF NOTIFIED OF BEING A WINNER, UNLESS AND UNTIL THE CONTESTANT'S ELIGIBILITY HAS BEEN VERIFIED.

Some things to keep in mind:

- Only submissions uploaded via the contest rules will be considered.
- Contestants may enter as many Themes and Arrangements as they want.
- Theme submissions should be recorded with one instrument, without any arrangement, orchestration or production.
- The Theme does not need to be long; make it as concise as possible.
- **All submissions MUST be in MP3 format.** Submissions in any other format will be rejected.
- Do not email Theme submissions to Embertone. Emailed submissions will be rejected.
- **Theme** submissions must be uploaded by March 31st at 11:59 PM EST to qualify for the Contest.
- By submitting a Theme, you automatically agree to comply with these Rules, become a "Contestant," and enter the Contest.
- **Arrangement** submissions must be uploaded via SoundCloud by April 30th at 11:59 PM EST to qualify for judging. Again, all submissions must use and highlight at least one Embertone product, of which you must be the licensed owner.
- Any entries received after the dates or otherwise not in compliance with these Rules will not be entered in the Contest.
- Do whatever you want with the theme, including reharmonizing, orchestrating, changing styles, meter, key, tempo, etc. Feel free to embed the original audio OR NOT.
- We love live instruments... we're not limiting you to any specific style - GET CREATIVE!
- You may not use your own theme
- 4-minute max for arrangements
- You can only use themes submitted for this contest
- You may only use one theme per arrangement

LEGAL

1. Consent

1.1 Any and all of Embertone's decisions on all matters relating to this Contest, including the judges' final decisions with regard to winners, will be final and binding. The Contest consists of a skill based competition in which prospective Contestants create an original musical theme, melody, and/or motif (each a "Theme" supplied by an "Original Author"), and subsequently create an original arrangement, remix or rendition of another Contestant's Theme (each an "Arrangement" created by the "Arranger").

1.2 Additionally, you agree that your name, your Theme and Arrangement, your picture and/or any other information you provide can be posted on any online forum, including, but not limited to, Facebook, SoundCloud, Snapchat, Instagram, LinkedIn, Twitter and/or any other online and/or print medium at Embertone's sole discretion. Notwithstanding this paragraph, Embertone does not guarantee that every Theme and/or Arrangement will be posted as such online.

1.3 Once you become a Contestant, you agree that Embertone and its affiliates may contact you via email about Contest- and Industry-related topics

1.4 you enter the Contest by submitting a Theme, and in doing so agree that you have read and understand the terms and conditions contained in these Rules, and agree that you will be bound by them. By submitting your Theme, and subject to Paragraph 5 below, you hereby issue any other Contestant a non-exclusive license, solely during the Arrangement Period, to create a derivative work by creating an arrangement or other adaptation incorporating, based on, and/or inspired by your Theme.

2. Qualifications

2.1 Current or former employees of Embertone may not enter the Contest. Current employees of any additional sponsoring companies likewise may not enter the Contest. Prize winners are responsible for all federal, state and local taxes.

2.2 Embertone takes no responsibility for Contest submissions that are lost, delayed, misdirected or incomplete or cannot be delivered or entered for any technical or other reason. Also, submission in any form except for the form specifically described above, or during the timelines established above, shall be deemed to be invalid/not received.

2.3 The following actions are grounds for disqualification from the Contest:

- Use of stock music or previously written or recorded music (whether by the composer or another source).
- Use of your own Theme in the arranging portion of the Contest.
- Use of unlicensed or illegally acquired software, products, samples and other tools used for the Theme and Arrangement.
- If for any reason Embertone deems an entry inappropriate, Embertone has full license and authority to remove it from contention.

2.4 Embertone also reserves the right, in its sole discretion, to disqualify any Contestant who it finds to be:

- Tampering with the entry process or the operation of the Contest;
- Acting in a non-sportsmanlike or disruptive manner, or with intent to annoy, abuse, threaten, harass, harm, mislead, or defraud any other Contestant, individual or entity; and/or
- Acting otherwise in violation of any of these Rules or any applicable Federal or State Law.

2.5 When You receive a prize, you agree to hold Embertone, and its affiliates, employees, representatives and agents, harmless for any liability, injury, loss or damages of any kind arising out of your submissions to the Contest and these Rules.

2.6 All winners and runners-up agree that Embertone may post their names on any webpage and in any media owned or controlled by Embertone or on other websites affiliated therewith. Embertone may also use their names, voice, likeness, photograph, statements, opinions, biographical information, and other indicia of their persona (the “Rights of Publicity”) in any future advertising, press releases, publicity, broadcast, social media, or any other media, without further consideration or remuneration, unless prohibited by Federal or State Law. For this purpose, you grant Embertone the non-exclusive right and perpetual license to use your Theme, Arrangement or Adaptation, as well as your Rights of Publicity in all media, whether now known or hereinafter developed, in and in connection with its promotion, publicity, marketing and advertising, and in connection with this Contest or other promotions by Embertone as it sees fit without any further notification or compensation to you. You agree to execute any documentation required and requested by Embertone to effectuate the purpose of this Paragraph 2.6.

3. Communications

3.1 Please make sure all your contact information — email address, name, phone number — is complete and accurate. All information provided is subject to verification. Change of contact information must be sent to strangerthemes@embertone.com. Embertone is not liable for emails delayed by SPAM filters, server rejections or outdated addresses, or otherwise lost or not delivered.

3.2 After the Contest, ALL CONTESTANTS will be notified of the winners and runners-up via email using the information submitted and prominently posted on the Contest Website. Within ten (10) days thereafter, all winners will execute any and all documentation deemed necessary to effectuate Embertone’s rights herein,

including but not limited to an Affidavit of Eligibility, Release of Liability and License Agreement, as provided by Embertone.

4. Prizes

There are seven prizes and/or awards that have a combined total approximate retail value (“ARV”) of all prizes (the “Prizes”) equals Eleven Thousand Dollars (\$11,000.00), which shall be distributed as follows:

MAIN PRIZES:

1st Place Arranger - \$2,100

1st Place Theme Writer - \$1,850

2nd Place Arranger - \$2,050

2nd Place Theme Writer - \$1,800

3rd Place Arranger - \$1,130

3rd Place Theme Writer - \$900

SPOTLIGHT AWARD: \$1100

Should actual value of the Prizes be less than the above-stated ARV, the winners or runners-up will not receive any difference in cash.

5. Copyright and Clearances

5.1 As the Original Creator or Arranger, you warrant and represent that any Theme or Arrangement you supply:

- is your own original creation;
- has not been exploited previously in any manner or medium;
- is not in the public domain;
- does not contain any uncleared samples or interpolations;
- does not infringe or violate the rights of any person or entity, and
- that all costs relating to the creation of your Theme(s) or Arrangement have been paid by you.

5.2 As the Composer, you are the sole owner and retain all rights, title and interest in the copyright in your Theme, however, you agree to issue a worldwide, non-limited and non-exclusive license to any Arranger who selects your Theme for purposes of creating a derivative copyright for which that Arranger shall be a “joint author” as that phrase is defined in 17 U.S.C. §201(a) (the “Adaptation”). That Arranger and you shall each own an equal share of the Adaptation provided, however, that neither you nor that Arranger shall issue a first-use license, nor any other commercial use license, in the Adaptation without the full consent of the other party, who shall not unreasonably withhold such consent.

5.3 As the Arranger, you may select and use one (1) Contestant-supplied Theme solely for the creation of your Arrangement/Adaptation in order to enter this Contest, provided that you comply with the terms of these Rules, specially Paragraph 5.2 above. You acknowledge and agree that the Theme is the sole property of the original composer and you shall not exploit or use the Theme (or any composition, mix, remix, video or other recording which includes or uses the Theme) in any way other than to create an Arrangement/Adaptation to be submitted as part of this Contest.

5.4 Any use of the Theme or Adaptation that does not comply with the terms of this Agreement will be a breach of these Rules, and may be considered either a breach of contract or an infringement of the Original Creator’s copyright.

6. Indemnification

You warrant that you are authorized to submit the Theme and/or Arrangement for consideration and freely enter into the licenses and agreement contained in these Rules. You agree to indemnify and hold harmless Embertone, its assigns, affiliates, agents, employees, officers, organizers, judges, sponsors, and partners, individually and collectively (the “Indemnified Parties”), from and against any and all claims, liabilities, losses, damages, and expenses (including but not limited to attorneys’ fees, and costs) which may be incurred by reason of: (a) any claim involving infringement of copyright or trademark, credits, publicity, screening, and loss of or damage to submitted material; (b) your breach of any warranty, term or condition found in these Rules; (c) any damages you incur that relate to the failure of malfunction of the Contest Website, or any telephone, electronic, hardware or software program, network, Internet, or computer malfunctions related to the Contest; (d) any condition caused by events beyond Embertone’s control that may cause the Contest to be disrupted or corrupted; (e) any printing or typographical errors in any materials associated with the Contest or the Contest Website; and (f) any other losses, damages, rights, claims and actions of any kind in connection with or resulting from participation in the Contest or acceptance of any prize, including without limitation, personal injury, death, and property damage, and claims based on publicity rights, defamation, or invasion of privacy. The sole burden of determining whether any material you submit is protected by copyright, trademark, rights of privacy, publicity or any other proprietary rights rests with the Original Creator or Arranger. You acknowledge and agree that the Indemnified Parties are third-party beneficiaries of this Paragraph 6.

7. General Terms

7.1 This Contest is subject to these Rules and all Federal, State and local laws and any applicable regulations. By entering the Contest, you irrevocably agree and acknowledge to be bound by these Rules, and decisions of Embertone and/or its legal representatives, which are final and binding in all respects. You agree that you have read and understand these Rules and/or have had them explained to you

by appropriate legal or business consultants, and forever and irrevocably waive all of your rights to claim ambiguity or inconsistency with respect to the Rules and, to the fullest extent permissible by applicable law, waive all of your rights to bring any claim, action, or proceeding against Embertone in connection with the Contest.

7.2 No refund will be made by Embertone for any cost associated with the creation, production and recording of any Theme, Arrangement or Adaptation. Embertone may refuse to award a Prize, or seek its recovery, in the event of a Contestant's fraud, dishonesty or disqualification under the Rules.

7.3 The winners and runners-up are solely responsible for any and all applicable Federal, State and local taxes on the Prizes. An IRS form 1099 will be issued to each winner and runners-up if required by law. No substitution, cash redemption or transfer of right to receive Prize is permitted, except in the discretion of Embertone. Prize is not transferable.

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7.4 Should one or more provision of these Rules be unlawful, void, or unenforceable, such provision(s) shall be deemed severable and will not affect the validity and enforceability of the remaining provisions and the remainder of the Rules will remain in full force and effect.

7.5 Embertone reserves the right, in its sole discretion, to suspend or cancel the Contest at any time if a computer virus, bug, or other technical problem corrupts the administration, security, or proper conduct of the Contest.

7.6 Embertone may revise these Rules at any time in its sole discretion by posting an updated version. Any Rules changes will be effective upon posting, and your continued participation in the Contest after a change to these Rules constitutes your continued binding acceptance of these Rules.

8. Representations and Warranties

You guarantee, represent and warrant to Embertone that:

- Each Theme and Arrangement supplied by you does not violate the rights of any third party including, but not limited to, copyrights, performer's or musician's rights, union rules, moral rights, trademark rights and/or any other intellectual property rights;
- Each Theme and Arrangement supplied by you is an original work by you and/or you have all necessary rights, licenses, consents and permissions to use; and
- You have any and all necessary licenses and consents for any and all performances and copyright works recorded as part of a Theme, Arrangement and/or Adaptation.

9. Jurisdiction

All issues and questions concerning the construction, validity, interpretation, and enforceability of these Rules and this , or the rights and obligations of Contestant and Embertone in connection with the Contest, will be are governed by the laws of the State of North Carolina, without giving effect to any choice of law or conflict of law rules or provisions (whether in the State of North Carolina or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of North Carolina. Except where prohibited, these Rules shall be governed by the laws of the State of North Carolina law, applicable to contracts entered into and to be performed entirely within North Carolina. North Carolina law shall govern all disputes arising out of or related to these Rules or the interpretation, performance or enforcement of these Rules. You agree to submit to the personal and subject-matter jurisdiction, as well as the venue, of the Federal or State courts located in Wake County, North Carolina in any action, suit, or proceeding that may arise out of or relate to these Rules, and such courts shall have exclusive jurisdiction over any such actions, suits, and proceedings. YOU ALSO SPECIFICALLY WAIVE ANY RIGHT TO A TRIAL BY JURY AND A TRIAL BY JURY; (b) any

and all claims, judgments and awards shall be limited to actual out-of-pocket costs incurred (if any), including costs associated with entering this Contest but in no event attorneys' fees; and (c) under no circumstances will you be permitted to obtain awards for punitive, exemplary, special, incidental, indirect, and consequential damages nor any other damages (whether due to negligence or otherwise), other than for actual out-of-pocket expenses, and any and all rights to have damages multiplied or otherwise increased. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATIONS OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO PLEASE CONSULT WITH AN ATTORNEY TO DETERMINE IF THE ABOVE APPLIES TO YOU.

10. Binding Agreement

These Rules constitute a binding agreement between you and Embertone, and between you and any Arranger who selects your Theme for creation of an Adaptation. You acknowledge the existence of good and valuable consideration.

11. Arbitration

By entering the Contest and agreeing to these Rules, you agree to submit any dispute regarding these Rules, the Contest, the Theme, Arrangement or Adaptation, or any other conflict arising out of anything associated therewith, to binding arbitration through Embertone and/or its legal representative for determination, which determination shall be conducted in accordance with the rules of the American Arbitration Association or some similar governing body, and which shall be final and binding and may be entered as a judgement in any court having jurisdiction over the matter.

12. Assignment

Embertone may assign any of its rights under these Rules, in whole or in part, to any person, firm or corporation without notice.

13. Relationship of the Parties

Nothing in these Rules will be deemed to create or establish an employment, agency, partnership or a joint venture relationship between you and Embertone or any of its sponsors, agents, affiliates or employees, or any other legal arrangement that would impose liability upon one party for the failure to act of the other party. No party to these Rules may hold itself out contrary to the terms of this Paragraph 13 and Embertone will not be liable for any representation, act, or omission by you that is contrary to its provisions.

14. DMCA Compliance

Embertone complies with the provisions of the Digital Millennium Copyright Act (the "DMCA"). In compliance with the DMCA, a Designated Agent has been established with proper documentation sent to the U.S. Copyright Office. If you have a concern regarding the use of copyrighted material on Embertone's or the Contest Website, please refer to Embertone's Terms of Use for information on how to submit a notice of claimed infringement to Embertone's designated agent.

15. Force Majeure

If, for any reason, the Contest (or any part thereof) is not capable of running as planned by reason of infection by computer virus, worms, bugs, tampering, unauthorized intervention, fraud, technical failures, fire, flood, storm or other natural cataclysm, riot, strike, civil commotion, governmental regulation or any other causes beyond the control of Embertone which, in their sole opinion, corrupt or affect the administration, security, fairness, integrity or proper conduct of the Contest (or any part thereof), Embertone reserves the right at its sole discretion to cancel, terminate, modify or suspend the Contest and conduct the Contest and select the winners and runners-up in a manner which is fair, equitable and in accordance with these Rules, as determined by the Embertone in their sole discretion.