

# Noli IP Newsletter

NOLI IP Solutions, PC

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## Plagiarism AS OR Copyright Infringement

By Judit Marai

One of our clients recently approached our firm with a story often heard in the entertainment industry: she created a series of films telling the story of one character in another movie, let's call such character "Ben, The Little Red

*doctrine. True plagiarism is an ethical, no a legal, offense and is enforceable by academic authorities, not courts. Plagiarism occurs when someone - a hurried student, a neglectful professor, an unscrupulous writer - falsely*

Ms. Luciana Noli and Ms. Mariana Noli will be attending the 138<sup>th</sup> International Trademark Attorneys Association (INTA) Annual Meeting in Orlando, Florida from May 21<sup>st</sup>, 2016 to May 25<sup>th</sup>, 2016.



LUCIANA NOLI



MARIANA NOLI

For more information to schedule a meeting, please contact us via email at [mail@noli-ipsolutions.com](mailto:mail@noli-ipsolutions.com) with a proposed meeting schedule.

Car." The movies entered the market in several countries in the last decades. Now someone else produces a movie "Richard, The Little Red Car" with the same core story line. Our client is the owner of the work, which has now been plagiarized.

*"Plagiarism, which many people commonly think has to do with copyright, is not in fact a legal*

*claims someone else's words, whether copyrighted or not, as his own. Of course, if the plagiarized work is protected by copyright, the unauthorized reproduction is also a copyright infringement."* Paul Goldstein, *Copyright's Highway 12* (1994)

In many instances, both plagiarism and copyright infringement occur when

## Getting Ready for My third INTA

By Luciana Eugenia Noli

As I am getting ready for the upcoming INTA Annual Meeting in Orlando, Florida, I realize that the 138<sup>th</sup> International Trademark Association Annual Meeting will be my third. First, Hong Kong in 2014, then San Diego in 2015 and now Orlando in 2016. How exciting! To me, this conference is a time I look forward to all throughout the year, an opportunity to see clients, friends and colleagues from all over the world. Safe travels and see you in Orlando!



copying the original work, but sometimes it is only plagiarism without infringing any copyright. How can we prove plagiarism in general? It mainly takes three steps: (1) Access to the Original Work; (2) Similarities in the New Work that provide evidence of copying as determined by an "Ordinary Observer"; (3) Failure to provide Adequate Attribution.

The Elements of Plagiarism according to the definition of plagiarism from the *Copyright's Highway* in the second paragraph above are as follows:

**1. Copying:** Did we copy original material? Yes, every single word.

**1.a. Access-** You cannot copy something that you have never experienced (seen,

heard etc.), so obviously, you need to have access to it. Did we have access to the work? Yes, it is published, so anyone can read it in the library, buy it in a bookstore, or order it on Amazon.

**1.b. Probative Similarities -** In our example it is easy, since we copied every single word, but life is not always this black and white. Therefore, the law created a test to decide what is similar enough to be plagiarized and what is not. We have to look it with the ordinary observer's eyes.

**2. Lack of Attribution:**

**2.a. No Indication of What Content is not Original -** if there is any indication that the material in your work is not actually yours, then you are probably safe. Like a simple quotation mark in our example.

**2.b. No Information who the Original Creator is -** a simple indication of the fact that the material is not yours is not enough to avoid plagiarism. And the psychology behind it is very simple: the original author implemented the time, energy and creative effort into that work, so he or she wants the credit for it. In our example, the author, the work and the exact place in the work is clearly indicated, so no plagiarism could be found in this article.

We helped our client and can definitely help in cases like this. If you think your original work was copied by someone else and need our legal advice, feel free to email us at [mail@noli-ipsolutions.com](mailto:mail@noli-ipsolutions.com).

## TTAB: Choose your Battles

By Mariana Paula Noli

We all know that fighting does not always solve all of our problems. I learned this quote early on, thanks to my father, a litigator in Argentina, who sometimes would share highlights of his war stories in the courtroom at the dinner table. It is true even in the legal world, a few times, I heard him say to his clients "You must learn to choose your battles. And learn what the other

*side is after... It is part of the overall strategy to get what you want."*

A few months ago, I received a call from a now client who was struggling in the middle of several legal battles before the Trademark Trial and Appeal Board (TTAB). As some of you probably know, the procedures before the TTAB can be viewed as mini-trials, including discovery

period, settlement discussions and negotiations between the parties, hearings, binding decisions, and motion filing practice, etc.

Proof of the fact that there is no always need to be aggressive to win is the fact that our client was not interested in "fighting" with the other side and prevent them from using its trademark, our client simply

wanted to get its trademarks registered. The other side was not interested in preventing our client from getting its trademarks registered, mainly it wanted to make sure that there would be no confusion in the marketplace between our client's and their business. Without going into too much details of our client's case,

something I like to share with you is that there is no always a reason to be aggressive with the other side to get what you want, sometimes what they want and what you want can be the same thing.

Of course, it doesn't mean that there is no reason to "fight" every single time, only

that sometimes it is not worth your time, money and energy.

For more information on our TTAB practice and whether we can help you, please do not hesitate to contact us at [mail@noli-ipsolutions.com](mailto:mail@noli-ipsolutions.com).

## Happy 2<sup>nd</sup> Anniversary NOLI IP Team

This month we celebrated the second anniversary of NOLI IP Solutions, PC. Here are some of the highlights for this second year in business:

- ✓ NOLI IP Solutions PC participated as a hosting firm of the American Bar Association (ABA) International Law Section ILEX Program 2015-2016
- ✓ Mariana together with colleagues from Mexico (Flor) and Paraguay (Ceci) formally organize the Women's IP Lunch™ organization and she was installed as CEO of a non-profit and editor of the Women's IP Lunch™ newsletter ([www.womensiplunch.org](http://www.womensiplunch.org))
- ✓ Judit participated in multiple international business forums, including the Budapest Startup Safari in Hungary ([budapest.startupsafary.com](http://budapest.startupsafary.com))
- ✓ Lucy became actively involved in the Circulo Italiano de Buenos Aires and served on many panel discussions ([www.circuloitaliano.com.ar](http://www.circuloitaliano.com.ar))
- ✓ Mariana was selected by the International Trademark Attorneys Association to participate of the Law Firm Management Committee
- ✓ Judit was installed as the US-Hungarian liaison for the American Hungarian Executive Committee (AHEC) ([www.americanhungarian.org](http://www.americanhungarian.org))
- ✓ Diane joined our NOLI IP team as a trademark paralegal and assisted in an important international filing projects for one of major clients
- ✓ Mariana toured several cities in Latin America, Bogota, Medellin, Buenos Aires, Mexico DF spreading her knowledge in intellectual property law and passion for startup businesses
- ✓ Lucy started working with the Entrepreneurship Center (Centro de Emprendedores) at her alma mater university to educate future generations of business people
- ✓ NOLI IP Solutions PC finalized strategic alliances with a law firm in the US specializing in corporate and immigration law and a law firm in Colombia to best assist our clients in pursuing their dreams.

