

# Noli IP Newsletter

NOLI IP Solutions, PC

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June 2019 Edition

## **Hollywood Style Celebration: Happy 5<sup>th</sup> Anniversary Noli IP Solutions!**

*By Mariana Paula Noli, Esq.*

In a blink of an eye, we are back at the office in California, still reminiscing about the fun times we had during the INTA Annual Meeting in

hundred (400) colleagues, clients and friends had a chance to take a break from the demanding four-day conference to



**You are our #NOLIIPSTARS for choosing us! Thank you!**

Boston. Our Hollywood theme booth to celebrate the fifth-year anniversary of Noli IP Solutions, PC was a huge success that went beyond my expectations. We had so many people from all over the globe stop by and wish us happy birthday! Over four

take a picture at our photo booth and feel like they were part of a Hollywood movie. I was very touched when a colleague who has been working with us for a long time, thanked me for providing/creating a safe

## **Hello June!!!**

*By Erica C. Durant*

We are pleased to announce that our booth at the 141st International Trademark Association (INTA) Annual Meeting in Boston, Massachusetts was a success. Thank you to all of you who took the time out of your busy conference schedule to come say hello and wish us happy birthday! It's so hard to believe that half the year has flown by, the summer months are almost here!



Noli IP has already had a very eventful and memorable year... June is a month that is very dear for the staff at Noli IP because June 21, 2019 is National take your dog to work day! Truth be told I get to work with puppies all year around 😊 Cheers to the rest of 2019 and much success!

“haven” for everyone during the “craziness” of the INTA conference.

Even though the conference only lasted four (4) days (from the 19<sup>th</sup> to the 23<sup>rd</sup> of May), there were many moments that will make me smile throughout the course of the year ahead of us.



One memorable moment for me was certainly when our colleague from Turkey returned with her son to pick up the prize for winning our social media campaign. She had over two hundred (200) likes on her post!

Truth be told, I had no idea that my colleague who runs her own practice in Ankara is not only an excellent trademark attorney but also somehow a “social media influencer.” It was so nice to give her the prize, *The Legally Blonde* movie. To me, it was extra special because she reminded me of the first lesson I learned from this movie. We should not judge a book by its cover. We can be “blonde,” beautiful, feminine, different and still be very smart, efficient, competent. Kuddos to Demet Uslu!



Following a similar concept but different format as we did during the INTA conference in Barcelona back in 2017, we asked our friends and clients to leave a post-it note, actually a star, with their names,

countries, firms, wishing Noli IP a very happy birthday! It was so nice to look at the Board as the conference was coming to an end with so many stars. Thank you for all the good wishes!



In my memory, I will always remember many special and fun moments of our Booth 741 during the INTA Conference in Boston. Just as the movies would not be popular without their audiences, we at Noli IP Solutions, PC would not be here if it was not for you, our #NOLIIPSTARS.

## Trademark Licenses Declared “Safe” after Bankruptcy

By Mariana Paula Noli, Esq.

A few days ago, on May 20, 2019, the U.S. Supreme Court finally ruled in *Mission Product Holdings, Inc. v. Tempnology, LLC*, that a debtor’s ability to reject executory contracts under Section 365(a) of the

Bankruptcy Code does not permit the debtor to rescind trademark licenses. Thus, trademark licensees cannot unilaterally be deprived of their rights to use a debtor’s mark. In plain English that decision means that

trademark licenses will survive bankruptcy. This Supreme Court’s decision rests at the intersection of trademark and bankruptcy law, and it will have broad implications in both areas. The case in *Mission Product*

*Holdings, LLC v. Tempnology, LLC*, No. 17-1657 (2019) resolved a long-standing circuit split that the International Trademark Association (INTA) had referred to as “the most significant unresolved legal issue in trademark licensing.”

As a background, in 2012, Tempnology, LLC, owner of the COOLCORE trademark, entered into a license agreement with Mission Product Holdings, Inc. that gave Mission two rights: the non-exclusive right to use the COOLCORE trademark in the United States and around the world, and the exclusive right to distribute certain COOLCORE products in the United States. The COOLCORE license was to expire in July

2016 but Tempnology filed for bankruptcy in September 2015. The COOLCORE license was an “executory contract” (a contract that neither party had finished performing), so Tempnology could either “assume” the COOLCORE license, obligating both parties to continue performing as agreed, or “reject” it, relieving Tempnology of its obligations but “breaching” the agreement and allowing Mission to sue for damages. Despite nearly a three-year gap between the expiration of the COOLCORE license (July 2016) and the Supreme Court’s opinion (May 20, 2019), the Court found that the case was ripe for determination based on Mission’s lost-profits claim

arising from Mission’s inability to use the COOLCORE trademark after Tempnology rejected the COOLCORE license. While Justice Gorsuch dissented, believing the case was moot because the license had expired, the majority disagreed and proceeded to the merits. The decision provides much-needed certainty both for debtors and licensees regarding how ongoing trademark licenses will be treated during restructuring. Trademark licensees will have additional comfort that their reliance on a licensed trademark in building a business will not be eviscerated by an untimely bankruptcy by the licensor.

## NIABA 2019: CI VEDIAMO A ROMA!

Ms. Mariana Noli joined the National Italian American Bar Association (NIABA) in 2018. This upcoming September 23-25, 2019, Mariana and her father Dr. Juan Carlos Noli will participate of the upcoming CLE in Rome, Italy.

