

Noli IP Newsletter

NOLI IP Solutions, PC

4/13/2016

April 2016 Edition

"That is a Rookie Move, You Don't Ask for an NDA!" said the Non-Patent Lawyer *By Mariana Noli and Raouf Rizk*

A few months ago in downtown San Diego, Mariana participated in the San Diego Startups Convergence event where she overheard many entrepreneurs laughing at the lack of experience showed by those "rookies" who request the execution

As most of you may already know, a non-disclosure agreement (NDA) or confidential disclosure agreement (CDA) is a legal contract that protects entrepreneurs against the theft of their intellectual property since sensitive

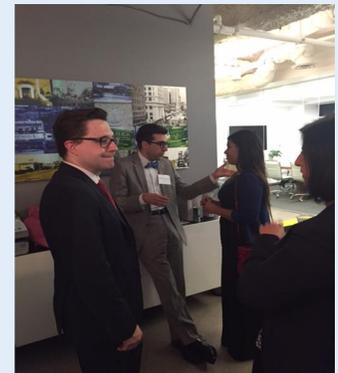
We believe that a NDA should be implemented for the protection of the entrepreneur whenever possible.

of a Non-Disclosure Agreement (NDA) prior to discussing and sharing their ideas with potential investors. Of course, these jokes didn't sound as funny to the ears of an intellectual property attorney. We had a few discussions about this particular topic and exchanged some thoughts, which made us realize this topic makes a good topic for a newsletter article.

information may be disclosed over the course of a meeting or presentation with potential investors. Most inventors and entrepreneurs know that a healthy amount of paranoia goes a long way when dealing with an idea or invention because ideas cannot be protected. In fact, anyone in the startup world would tell

Pre-INTA Party in Los Angeles, CA *By Monica Hernandez*

The 2016 Pre-INTA Annual Meeting was held on February 25, 2016 in Los Angeles. To me, it was my first opportunity to assist an INTA meeting and network with seasoned IP lawyers and colleagues.



Thank you Mariana for encouraging me to attend these events. Thank you Raffi for hosting this meeting, it was a pleasure to share our own experiences in this IP World!



you that *“an idea without execution is worthless.”*

Startup entrepreneurs are frequently encouraged not to present an NDA or confidentiality agreement at their first meetings with an investor and they are told that only in exceptional circumstances, during the due diligence process, will such investor consider signing an NDA. So how do you as an entrepreneur protect your intellectual property rights? It is critical for the entrepreneur/inventor to consider confidentiality when approaching potential investors or individuals for assistance in developing their novel idea(s).

We believe that an NDA should be leveraged for the protection of the entrepreneur whenever possible. It is true that often times entrepreneurs request investors to sign an NDA too early in the investment process, and most investors would be hesitant to sign one so early because a large number of entrepreneurs approach them each year with similar ideas or the possibility of litigation in case of inadvertent disclosure. So

what do you do in such situations when it is too early to ask investors for a NDA?

Prior disclosure, inventions can be patented, thus, a provisional patent application can be a great first step. Of course, the sufficiency and comprehensiveness of your disclosure is critical and that “Patent Pending” phrase can scare away many, if not all, potential competitors. After you have a patent application on file, the need to obtain a confidentiality agreement lessens, but you are always better off getting a confidentiality agreement signed whenever possible.

First, it is highly recommended that an entrepreneur/inventor consult with a patent attorney/agent about the protection of their ideas and the risks of communicating these ideas to a third party (e.g. persons or groups outside of a company). Second, the NDA should serve both the entrepreneur and investor(s) interest(s). An entrepreneur should always seek the assistance of an attorney who can

prepare this document as well.

Business owners should always make sure to protect intellectual property, including all proprietary and confidential company information. They should not disclose any restricted information to outside sources without the provisioning of a non-disclosure agreement to all involved participants, including their potential investors. A partnership requires a high degree of mutual trust, therefore, an entrepreneur can protect himself/herself from any risk issues by having an NDA prepared by their attorney during the due diligence process.

Therefore, and contrary to claims mentioned above, it is not always a “rookie move” to try to get a confidentiality agreement signed whenever possible. If one cannot be obtained, an entrepreneur absolutely must ponder the possibility of filing a provisional patent application first. For more information, please contact us at mail@noli-ipsolutions.com or at raouf@noli-ipsolutions.com.

Europe: Can You Feel The Changes?

By Judit Marai

For those of you who are interested in trademark registration in Europe: please be aware that the changes of regulation went into effect on **March 23, 2016**. You probably remember our article on this topic last year, but please allow us to highlight the main changes in a quick review.

First, the OHIM, the Office for the Harmonization in the Internal Market is now the **EUIPO European Union Intellectual Property Office**.

Second, a Community Trademark (CTM) is now referred to as an **European Union Trademark (EUTM)**.

Also, please note that the application fee changed from “up-to-three classes” fee structure of 900.00 EUR to **“one-fee-per-class” system: 850.00 EUR**. One additional class costs 50.00 EUR; a third, and any additional classes cost 150.00 EUR per class.

Last but not least, the renewal fee changes to 850.00 EUR

after the first class; the second class cost an additional 50.00 EUR; the 3rd and subsequent classes are an additional 150.00 EUR.

These are some of the more important changes in the intellectual property legislation in Europe. If you have any questions about the changes in the European Union trademark registration regulation, please do not hesitate to contact us at judit@noli-ipsolutions.com.

2016 ABA Mid-Year Meeting in San Diego

Last February 2016, Ms. Mariana Noli and Ms. Monica Hernandez attended the **American Bar Association Mid-Year Meeting** which took place in our city of San Diego, CA, from Feb. 3-8, 2016. Ms. Noli has been an active member of this reputable organization of US lawyers since early 2007, immediately after becoming a US licensed attorney in 2006. Our firm has also been present at many ABA meetings and events to this date, and proudly participated of the ILEX International Lawyers Exchange Program of the International Law Section of the ABA. For more information on the activities and mission of this organization, please visit: www.americanbar.org.

