

Noli IP Newsletter

NOLI IP Solutions, PC

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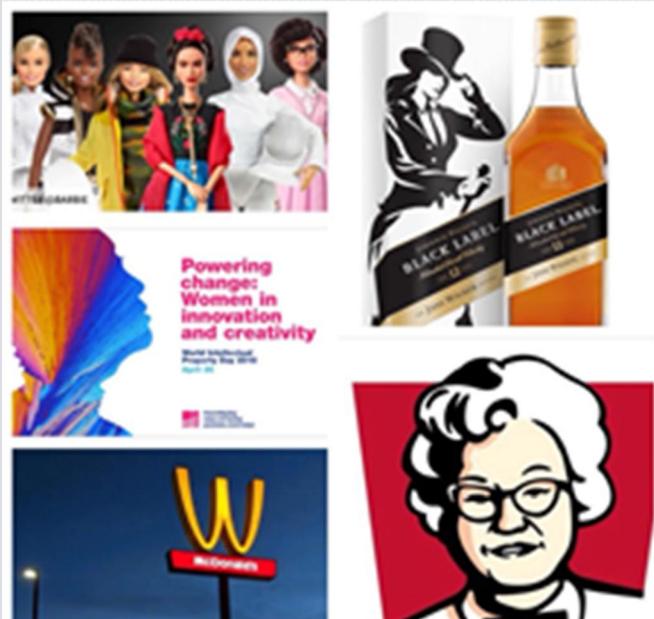
March 2018 Edition

March 8th, 2018: Happy International Women's Day

By Mariana Paula Noli

Only a few weeks ago, the entire world celebrated "International Women's Day" on Tuesday March 8th, 2018. As a trademark attorney who is "in love"

branding campaigns to honor women, on our special day. Maybe because I grew up playing with Barbie dolls, it meant a lot to



with marketing, branding as well as trademark issues, I have to say I was very pleased and fascinated to see many international companies with such creative marketing and

see the new Barbie dolls series. Not just beautiful, but strong and accomplished female icons. I give kudos to Mattel for launching a line of dolls based on

Pre-INTA Annual Meeting in LA



On March 9th, Ms. Diane Fischer, Mr. Sergio Chacon-Hoffmann and Ms. Mariana Noli were present at the Pre-INTA Annual Meeting reception at the California Club in downtown Los Angeles.



We had the opportunity to mingle, network and meet friends, peers and professionals in our field. Thank you to our colleague and friend Raffi Zerounian for coordinating the details of this 2018 Pre-INTA Annual Meeting. See you in Seattle!



women heroes we all look up to such as Amelia Earhart, Katherine Johnson, Frida Kahlo, Chloe Kim, etc.

As a child I remember laughing at the logo of the walking man. One of my father's clients used to get him as a gift a Johnny Walker Blue Label Scotch Whisky for every major win. So when I heard that beverage giant Diageo's Johnnie Walker brand added a female counterpart to its iconic mascot in tribute to women around the world, I had to order a bottle. Not to encourage drinking among young women, but how creative of a campaign that now there is also a Jane Walker, who keeps walking no matter the rain.

Other companies such as McDonald's flipping the famous Golden Arches, as well as Kentucky Fried

Chicken replacing the face of Colonel Sanders for his wife's face, had equally as creative campaigns. We women have always been part of business and progress, but it was nice to see that many companies recognize that publicly.



From left to right, Ms. Noli, Mrs. Durant, Mrs. Fischer and Ms. Deters.

Not only is March 8th the day the world celebrates International Women's Day, but in the United States of America, March is commonly known as National Women's History Month. Back in 1987, Congress declared March

as National Women's History Month in perpetuity. President Jimmy Carter's message to the nation designated March 2-8, 1980 as National Women's History Week.

At **Noli IP Solutions, PC** we celebrate and thank all our women for making a difference in our daily operations. We are very proud of the women that are part of our group, we are all from different backgrounds. We believe that Diversity is essential to the success of our firm. As of January 13, 2018, we obtained the official certification from the US Small Business Administration as a WOSB (Women Owned Small Business) and we are happy to know that even if small, we are making a difference. Thank you to our clients, colleagues and friends for your support.

Legal Perspectives of the 2018 Russia World Cup Marketing Campaigns

By Juana Muñoz Quintero (MyBrand, Colombia)

With only a few months to go until the 2018 World Cup in Russia, companies are starting to prepare their marketing campaigns and promotions to

position their brands and boost their growth, taking advantage of this event that generates so much expectation among fans and

consumers. Adidas®, for example, as sponsor of the event, launched the new Colombian National Team jersey with a strong campaign

on social networks using numerous influencers to encourage its sales. MY BRAND has provided legal advice to multiple companies to conduct marketing campaigns and promotional activities. Thanks to our experience throughout the years with this type of activity in Colombia, we have gathered some important points to take into account to avoid inconveniences:

1. Promotional activities that apply to more than one Department or main city are considered to have a national scope and therefore require an authorization from Coljuegos.

2. If the definition of the activity winners are made randomly through luck, regardless of the prize's value, the company must request Coljuegos' authorization (national scope) or the designated local authority, depending on the Department or city in which the activity will take place. Failure to comply with the above can lead to legal sanctions. On the contrary, if the definition of the winners depends on the skill and ability of the participants, authorization is not required. For example, when the winner is the person with most likes on Instagram or Facebook.



Ms. Echeverri, founder of the MyBrand firm in Colombia, together with Ms. Noli.

3. In order to use a person's image, specifically the players of the national teams, a company must have the proper authorization, otherwise, it may result in sanctions and lawsuits by the players themselves or the football teams to which they belong. This was the case of a fence put in Bucaramanga in 2014 that used not only Falcao García's image, but the image of the Colombian Football Federation (Colfútbol), associated with the Conservative Party. The above cited fence had to be dismantled after a claim filed by Falcao García. In this regard there are many cases such as Diego Armando Maradona against the video game company Konami for the video game Pro Evolution Soccer, or the case of a possible demand by Chilean players Arturo Vidal, Alexis Sánchez and Gary Medel against the humorist Stefan Kramer for the unauthorized use of their image. The image use authorization must be granted through a contract signed by the player or the person with the legal capacity

to do so, regulating each of the circumstances of the case. An invalid authorization will generate economic losses for the company since good faith does not exempt legal compliance. As an example, the historic classification of Panama for the 2018 World Cup in Russia put on alert the Association of Panamanian Footballers so that the image of the players would not be used without their consent.

4. Colfútbol is responsible for protecting the Colombian National Soccer Team's brands. The use of these brands without prior authorization from Colfútbol entails lawsuits, as was the case of the company CLARO in the 2014 World Cup in Brazil when using signs, logos and emblems of the Colombian National Soccer Team.

5. Trademarks are one of FIFA'S most important assets which is why this organization spares no expenses when it comes to claims against infringements of its intellectual property rights. **WITHIN 40 DAYS FROM THE START OF THE 2010 SOUTH AFRICA WORLD CUP, FIFA FILED 2,500 LEGAL ACTIONS TO SAFEGUARD ITS TRADEMARK FIFA WORLD CUP.** Consequently, it is best to review the applicable regulations and analyze the alternatives

available to carry out a promotional activity related with the 2018 Russia World Cup. The value and impact of football in the world's economy is enormous and the titleholders of rights such as FIFA, National Federations, Clubs and players do not allow others to benefit if there is no marketing agreement.

Due to the above cited, it is of vital importance to make a commercial and legal analysis with the corresponding work teams when conducting an advertising campaign or promotional activity. This analysis will help identify the existing alternatives to carry out the activity and the legal requirements applicable to all digital and printed materials, etc. MY BRAND has the experience to provide legal advice to all types of companies in the development and execution of their campaigns and promotions. We help you anticipate the sanctions or claims that may arise from the activity. Anticipation is key in the process, contact julianae@mybrandlegal.com or juana@mybrandlegal.com and we will advise you how to handle such issues.



WORLD CUP MARKETING WARNINGS

by Mariana Paula Noli

When it comes to World Cup marketing campaigns and license requirements, remember that:

YOU CAN'T USE FIFA TRADEMARKS AND IP WITHOUT PERMISSION.

We recommend that you check the FIFA Guidelines, as there should certainly be no mention of the 2018 FIFA World Cup Russia Championship without a license. See Guidelines: http://resources.fifa.com/mm/document/affederation/marketing/02/85/05/06/2018fifaworldcuppublicguidelines_en_aug2017_neutral.pdf

Aside for the reference to the FIFA's trademark and intellectual property rights, we are of the opinion that you should take into account the intellectual property rights, trademarks and/or copyrights associated with the national teams and/or players and understand the legal consequences for using them without a license. Sports tournaments such as NFL's Super Bowl (www.nfl.com), CONMEBOL's Copa America (www.conmebol.com), the Olympic Games

(www.olympic.org), as well as the FIFA's World Cup Championship (www.fifa.com), are some of the scenarios where athletes (players and sport teams) can promote their trademarks, names, and image to get more sponsoring from other companies willing to pay to appear in the tournament advertisements or to promote their product or services



NAMES AND NUMBERS ARE PROTECTED. The name of the player is under the protection of right of publicity (aka personality rights). The use without permission violates the celebrities' right of publicity and perhaps trademark rights or service mark rights. Lionel Messi, Beckham, James Rodriguez, Cristiano Ronaldo, are examples of soccer players who are aware of the importance of their names, so they registered their names as a trademark. By

protecting their image and name, they can have benefits in the sport and marketing field using its name as a trademark. These players use their image to promote lotions, clothes, sport items and even underwear, things that are not always related to soccer.

USING SOMEONE'S NAME AND LIKENESS WITHOUT PERMISSION IS NOT

LEGAL. The right of publicity, often called personality rights, is the right of an individual to control the commercial use of his or her name, image, likeness or other unequivocal

aspects of one's identity. Violation of a person's right of publicity would lead to tremendous legal trouble: In most states, you can be sued for using someone else's name, likeness, or other personal attributes without permission for an exploitative purpose. There are two distinct legal claims that potentially apply to these kinds of unauthorized uses: (1) invasion of privacy through misappropriation of name or likeness ("misappropriation"); and (2) violation of the right of publicity. (The "right of publicity" is the right of a

person to control and make money from the commercial use of his or her identity.) **SPORT EMBLEMS ARE TRADEMARKS WHICH CANNOT BE USED WITHOUT A LICENSE.** Sports emblems are a trademark of the sporting body and the emblem is their intellectual property, covered by copyright. As any other trademark, copyright or intellectual property right it cannot be used without the legal owner's consent. For more information, please do not hesitate to contact us at mail@noli-ipsolutions.com.

2018 INTA Annual Meeting in Seattle, WA

In less than two months, part of our group at Noli IP Solutions, PC will be present at the International Trademark Association Annual Meeting to take place in the city of Seattle, from May 19th to May 23rd, 2018. Ms. Mariana Noli and her colleague in charge of the foreign patent prosecution, Mr. Sergio Chacon-Hoffmann will participate in the education sessions as well as meeting with clients, and colleagues. For an appointment, please email us a proposed time, date and place at mail@noli-ipsolutions.com.

NOLI IP Solutions, PC will be attending the INTA Annual Meeting in Seattle, Washington from May 19th, 2018 to May 23rd, 2018.



MARIANA PAULA NOLI



SERGIO CHACON-HOFFMANN

For more information to schedule a meeting, please contact us via email at mail@noli-ipsolutions.com with a proposed meeting schedule.