

Noli IP Newsletter

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Let's Get Creative but Don't Forget to Pay Attention to Copyright

By Luciana Noli and Mariana Noli

Being a creative worker takes lots of work and efforts that include hours of personal inspiration jointly with hours of transpiration. So if you don't want to lose the rights to your work, you should be careful and pay attention to

Office nor publication is required for copyright protection. However, timely protecting your copyright has many advantages.

Among the many benefits is the fact a copyright

"So when Bob Marley said that "One good thing about music is that when it hits you, you feel no pain", he was not thinking about copyright. Believe us when we tell you that is not the case when you are facing a copyright infringement action."

protect it.

The first thing you need to know is that copyright is the form of protection provided by law and a work is automatically protected by copyright when it is created, "fixed" for the first time in a tangible form, whether a copy or a phonorecord. Neither registration in the Copyright

registration establishes a public record of the copyright claim since an application for copyright registration contains three essential elements: (1) a completed application form, (2) a nonrefundable filing fee and (3) a nonreturnable deposit. This deposit material shows exactly what

Our "Tango" Connection: Juan Francisco Noli

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When I decided to dedicate this newsletter to copyright, my sister Luciana thought it was appropriate to dedicate a small space to honor our great-grandfather, tango songwriter and composer, **Juan Francisco Noli**. We may not be as good of tango dancers as we should for being Argentineans and did not pursue an artistic career following his steps, but we take great pride in his work and we hope to help many artists like him in protecting their intellectual property rights.



has been protected under the copyright.

Furthermore, a registration is necessary before filing in court a lawsuit for infringement upon works originated in the U.S. Copyright is secured automatically upon its creation, however, this concept is frequently misunderstood. No publication nor registration or other action in the Copyright Office is required to secure copyright. However, the U.S. Copyright Office must have acted on your application before you can file a suit for copyright infringement. This means that you must have a copyright registration certificate to institute an action in federal court.

Another advantage of seeking copyright registration is that the certificate will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate if made before or within five years of publication. Depending upon the time when you seek protection, the registration may alleviate the burden of proving certain damages. If registration is made within three months after publication

of the work or prior to an infringement of the work, statutory damages as well as attorney's fees will be available to the copyright owner in court actions.

Otherwise, only an award of actual damages and profits is available to the copyright owner. Trust when we say this can save you a lot of time and attorney fees.

Last but not least, copyright registration allows the owner of the copyright to record the registration with the U.S. Customs Service for protection against the importation of infringing copies.

So when Bob Marley said that *"One good thing about music is that when it hits you, you feel no pain"*, he was not thinking about copyright. Believe us when we tell you that is not the case when you are facing a copyright infringement action.

Using a copyright notice is no longer required under U.S. law, although it is extremely beneficial. Because prior law did contain such a requirement, however, the use of notice is still relevant to the copyright status of older works. Use of the notice may be important because it

informs the public that your works are protected by copyright, identifies the copyright owner, and shows the year of first publication.

The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office. At a minimum, such notice contains the symbol ©, the year of first publication of the work, the name of the owner of copyright.

We advise those creators that even though in general copyright registration is a legal formality intended to make a public record of the basic facts of a particular copyright and it is not a requirement for protection, copyright law provides several advantages to encourage copyright owners to seek registration.

Being creative doesn't mean you have to forget about the law and the real world situations until they hit you. We believe it is always easier when you know and protect your rights ahead of time. Please do not hesitate to contact us at mail@noli-ipsolutions.com should you have any questions about your copyright.

Stop. Think. You Got a Cease and Desist

By Judit Marai and Mariana Noli

So you are happy and proud to be done with “your work”. You know it is good and already feel the success. You have just published it, upload it on YouTube and your website. You can see your future fans as they were right in front of you. But not too long down the road, a letter arrives from some attorney saying that you “infringed” upon somebody’s rights. You should now stop using, showing and selling your work. You just got a cease and desist letter and even the name sounds frightening. What does it really mean? And what should you do?

You could ignore the letter. You did nothing wrong, so you do not even want to spend your time to address this nonsense. Lawsuits are too expensive anyways so they are not going to pursue this. You might be right but what if you are not? You need to consider your options very carefully before you decide to ignore a cease and desist letter. Alternatively, you could start collecting as much information as you can. To be on the safe side, it will not hurt to collect evidence such as documents, e-mails, screenshots, pictures and anything that could help

prove that you actually didn’t infringe. We recommend you do this regardless of what you decide to do. Finally, you could respond to these allegations. We always recommend doing the information collection first. With that being done, you know how strong your case is and how to respond. Have you make a mistake? Can you make sure you didn’t do anything wrong? Great. Believe us, it is always better to know ahead of time.

No matter whether you decide to respond or not, we are here to assist you.

LatAm Business: Viva Mexico!

Last month, Ms. Noli visited several clients in Mexico city and continue to explore opportunities to work together with entrepreneurs and companies in that country interested in doing business in the U.S. While in Mexico, she also completed a challenge which involved running two half marathons back to back. Promoting running, sports and a healthy lifestyle is part of what we strive as a company. For more information, please see: http://running.competitor.com/2015/03/news/59-runners-take-ambitious-d-c-mexico-city-weekend_124851

