

Noli IP Newsletter

NOLI IP Solutions, PC

5/1/2019

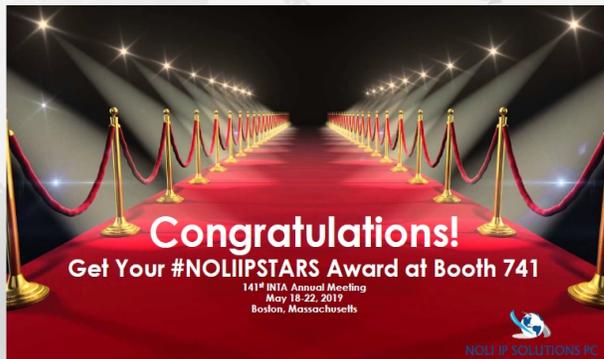
May 2019 Edition

Hollywood Style Celebration: Happy 5th Anniversary Noli IP Solutions!

By Mariana Paula Noli, Esq.

Whenever we share that Noli IP is an IP law firm based in sunny California, most people around the world think of Hollywood, surfing in La

of the famous movie studios (including Walt Disney, Warner Bros, the Burbank Studios, etc.), always jokes around that



You are our #NOLIIPSTARS for choosing us! Stop by and get your Award

Jolla, Silicon Valley, or wine country. After careful thinking, many discussions and bouncing ideas internally, it seemed like a good choice for the theme of our 5th year anniversary was to celebrate Hollywood style. Karim, one of my esteemed patent colleagues whose office is located in Burbank near most

Hollywood must have rubbed off on me. Yes, I am guilty of this, and pretty good at taking pictures and documenting special firm moments with my camera!

Truth be told, it has rubbed off on me as a result of me spending the

INTA Boston, Here We Come!!!

By Erica C. Durant

Noli IP Solutions, PC is proud to celebrate its 5th year in business this month, thank you for all your support. To our clients, we want to say a special thank you for entrusting us with your business. As we are getting ready for the upcoming INTA Annual Meeting in Boston, MA, the staff that will be representing Noli IP are overwhelmed with joy to see clients, friends and colleagues from all over the world.



This year we decided to have a booth during the conference, so please stop by booth 741 at the Boston Convention Center for our fifth anniversary. Safe travels and see you in Boston!

first decade of my legal career working as an IP attorney in the glamorous city of Los Angeles. If that happened, trust me that anything is possible.

Int. Cl.: 16 and 41
 Prior U.S. Cls.: 38 and 107
 United States Patent and Trademark Office
 10 Year Renewal

TRADEMARK
 SERVICE MARK
 PRINCIPAL REGISTER



ACADEMY OF MOTION PICTURE ARTS AND SCIENCES (CALIFORNIA CORPORATION)
 890 WILSHIRE BOULEVARD
 BEVERLY HILLS, CA 90211

FOR: BOOKS, PAMPHLETS, BROCHURES AND PRESS KITS ISSUED FROM TIME TO TIME, IN CLASS 16 (U.S. CL. 30)
 FIRST USE 5-16-1928, IN COMMERCE 1-0-1937.

FOR: EDUCATIONAL AND ENTERTAINMENT SERVICES RENDERED THROUGH THE MEDIUM OF AN ANNUAL LIVE, TELEVISION PROGRAM DEALING WITH MOTION PICTURES, IN CLASS 41 (U.S. CL. 107)
 FIRST USE 3-16-1928, IN COMMERCE 3-19-1933.

SER. NO. 71-031,493, FILED 10-2-1974.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed on Oct. 31, 1995.

COMMISSIONER OF PATENTS AND TRADEMARKS

Even though it has already been a few months since the “real” Academy Awards ceremony (honoring the best films of 2018, on February 24, 2019, at the Dolby Theatre, in Los Angeles, California), I thought we could write about interesting IP facts relating to the ceremony broadcasted on ABC.

The story of Hollywood is quite interesting, and as IP practitioners, it is fascinating to think of all the intellectual property rights (trademarks, copyrights, etc.) for films, owned by studios, creators as

well as the rights owned by the Academy of Motion Picture Arts and Sciences (AMPAS) itself.

The **Academy Awards**, or the **Oscars**, are a set of awards for artistic and technical merit in the film industry. It is the oldest worldwide entertainment awards ceremony and is now seen live worldwide. In case you did not know it, the shape of the statute, or Oscar, is protected under many trademark registrations some of which, I decided to include as part of this publication.

Int. Cl.: 9
 Prior U.S. Cl.: 21
 United States Patent and Trademark Office
 Reg. No. 1,895,980
 Registered May 30, 1995

TRADEMARK
 PRINCIPAL REGISTER



ACADEMY OF MOTION PICTURE ARTS AND SCIENCES (CALIFORNIA CORPORATION)
 890 WILSHIRE BOULEVARD
 BEVERLY HILLS, CA 90211

FIRST USE 3-0-1902; IN COMMERCE 3-0-1932

OWNER OF U.S. REG. NO. 1,020,635

FOR: PRE-RECORDED VIDEO TAPES FEATURING ENTERTAINMENT RELATING TO MOTION PICTURES, IN CLASS 9 (U.S. CL. 11)
 SER. NO. 74-477,105, FILED 1-6-1994
 KEVIN PESKA, EXAMINING ATTORNEY

Given annually by the AMPAS, the awards are an international recognition of excellence in cinematic achievements as assessed by the Academy's voting membership. The various category winners are awarded a copy of a golden statuette, officially called the "Academy Award of Merit", although more commonly referred to by its nickname "Oscar". A total of 3,072 Oscar statuettes have been awarded from the inception of the award

through the 90th ceremony in 2018.

For more information about the AMPAS IP rules, please visit the following link at: <https://www.oscars.org/legal/regulations>

Talking about movies, we are all pretty familiar with the FBI warning displayed at the beginning of every motion picture as depicted below.



But do you know what that means? The FBI Anti-Piracy Warning reads as follows: *“The unauthorized reproduction or distribution of a copyrighted work is illegal (1). Criminal copyright infringement, including infringement without monetary gain (2), is investigated by the FBI (3) and is punishable by fines and federal imprisonment. (4)”* Yes, it shows up on every movie screen, and you’ve seen it a hundred times.



REPRODUCTION OR DISTRIBUTION OF COPYRIGHTED WORK. Fair Use is spelled out under [Section 107 of the Copyright Act](#), and it's a baseline for making sure copyrights protect and encourage the imagination of individual creators, but not throttling the creative process altogether. Generally speaking, if you're using a creative work for one of these purposes, you're *probably* (but not definitely) in the clear: Criticism, Comment, News reporting, Teaching, Scholarship, Research.

It's certainly a delicate line to walk, to make sure creators get fairly compensated for their work, while also leaving the laws open enough so others can share the work and be inspired and educated. Fair Use claims are evaluated on a case-by-case basis. The U.S. Copyright Office looks into: (1) the purpose and character of the use; (2) the nature of the copyrighted work, (3) how much of the copyrighted work was used, and (4) whether your use of

the copyrighted work will affect the creator.

INFRINGEMENT WITHOUT MONETARY GAIN. The rule of thumb is if you are using the copyrighted work without monetary gain, you do not owe any damages. However, MIT student David LaMacchia **freely** distributed "[countless commercial software programs](#)" causing the software companies the loss of a ton of money.



The NET Act closed that loophole, so now the rule of thumb is if you're using copyrighted material in a way that harms the original creator, it's probably illegal. The process of a copyright

infringement investigation typically follows these steps:

1. Evaluate the situation
2. Figure out the scope of the copyrighted work
3. Determine who the violator(s) are
4. Gather Evidence and determine damages
5. Notify the violators of the situation and the proposed remedies.

If a court finds infringers guilty of willful infringement, those statutory damages awarded to you can range between \$30,000 to \$150,000 per registration, plus attorney's fees. As far as prison time goes, according to the U.S. Department of Justice, first-time copyright infringers could get up to five years in prison, repeat-offenders could be on the hook for up to ten.

We are really excited about our Hollywood theme booth and celebration. If you plan to attend INTA, stop by booth 741 for your #NOLIIPSTARS awards.

[2019 Inter-American Association of Intellectual Property \(ASIPI\) Mid-Year Meeting in Los Cabos \(March 31st – April 2nd\)](#)

By Mariana Paula Noli, Esq.

Only a few weeks ago, I participated of the ASIPI meeting in Los Cabos, Mexico. This year's conference was titled "*Intellectual Property and*

Technology: Linking the Future. Ready to Keep the Pace." The educational sessions from "Licenses in the Digital World" to "Artificial

Intelligence – Ethical Considerations" and from "Influencers Marketing Hot Topics" to "Battle Royale and E-Sports" were outstanding.

Among the several panels, one of my favorites was certainly “Content is the King” where the panelists Deborah Flores from Televisa (<https://www.televisa.com/>)

and Ana Maria Magana from Motion Picture Association (<https://www.mpaamericalati na.org/>) discussed audiovisuals’ new platforms and new business models.

The panel was moderated by our esteemed colleague Noelle Jeannerett (Munoz Jeannerett Alvarez y Cia). For more information, please visit www.asipi.org.

Happy 5th Anniversary NOLI IP Team

This month we celebrate the fifth-year anniversary of NOLI IP Solutions, PC. Here are a few highlights of our fifth year in business:

- ✓ Mariana, Sergio and Karim attended the 140th INTA Annual Meeting in Seattle, Washington
- ✓ Mariana was one of the speakers at the webinar “Become the CEO of your own career” organized by the INTA Law Firm Committee
- ✓ Mariana and Diane attended the panel discussion on “Cross-Border Issues for the Arts” by the California Lawyers for the Arts
- ✓ Mariana moderated a panel discussion organized by the California Lawyers Association (CLA) IP Section on the “Extraterritorial Applications of the Lanham Act”
- ✓ Mariana became Vice-Chair of the International Interest Group of the Intellectual Property Section of the California Lawyers Association (CLA)
- ✓ Lucy represented Noli IP at EmprendING and was interviewed during the conference
- ✓ Lucy became a member and participated officially for the first time of the AAAPI (Asociacion Argentina de Agentes de Propiedad Industrial) conference in Buenos Aires, Argentina
- ✓ Mariana moderated another panel by the CLA IP Section on “Chinese Trademark Squatters and the Global Risk to American Businesses”
- ✓ Mariana was featured at the Quarterly International IP Law Update of the New Matter, the official publication of the California Lawyers Association IP Section
- ✓ Diane participated of the INTA Trademark Administrators Conference in Orlando, Florida
- ✓ Erica had her third anniversary with Noli IP Solutions, PC
- ✓ Mariana and Diane participated of the Federal Bar Association, San Diego Chapter, Fourteenth Annual Judith N. Keep Federal Civil Practice Seminar
- ✓ Mariana volunteered as a moot court judge at the University of San Diego, School of Law
- ✓ Diane attended the Small Business Expo in San Diego and represented our group
- ✓ Mariana travelled to New Orleans for the INTA Leadership Meeting November 6-9, 2018
- ✓ Mariana, Diane, Sergio and Karim attended many of the IALA monthly dinners at Casa Italiana, including the California Supreme Court Night in December
- ✓ Mariana was installed as First Vice President of the Italian American Lawyers Association (IALA)
- ✓ Mariana attended the Executive Committee meetings of the IP Section of the California Lawyers Association in San Francisco (02/02/2019) and Sacramento (03/23/2019)

