



Today's Intellectual Property

Today's Intellectual Property according to Salvatore Di Palma

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From the XVIth century, the emergence of Intellectual Property has been closely linked first to the birth of mercantilist capitalism, followed by industrial capitalism, the foundation of the current Intellectual Property standards. These XIXth century standards have often proven to be inapt to the requirements of today's new cognitive capitalism.

Starting in the early 1990s, the relationship between capital and labor shifted paradigm, resulting in a foundational modification of the global financial system that led to a progressive phasing out of industrial capitalism in favor of cognitive capitalism. This new capitalism, based on a proficient, savvy and immaterial economy, has revolutionized individual and collective behaviors toward creativity and innovation due to the use of new tools, such as Big Data, algorithms, information systems interoperability and information systems. This mutation, manifested through people's ability to network over the globe, a rapid flow of ideas and the birth of new modes of communications, is transforming our society because of a daily eruption of New Information and Communication Technologies (ICT) and, simultaneously, modifying the legal property concept and undermining the foundation of Intellectual Property Rights.

For several decades, a debate has steadily increased between the defenders of monopolistic Intellectual Property Right currently in effect who seek new protection barriers for a better defense against infringement, and, the supporters of creating new and flexible rights that respond to the economic mundialization needs and especially of an open innovation and democratic access, given that today, an innovation is the fruit of a team of inventors' cooperation, not only that of one sole author or solitary creator, as it was in the XIXth and XXth centuries.

Numerous jurists, economists and experts are questioning whether Intellectual Property has exhausted all of its resources and is now facing an impasse for lack of solutions to the challenges raised every day by cognitive capitalism.

The battle rages between those who wish to create new and flexible Intellectual Property Rights to respond to the needs of an open innovation and democratic access, and those innovation, communication and cultural industrials who seek to implement new defense barriers to defend the common assets of a collective intelligence, linking innovation to monopolistic and coercive law of the XIXth century.

Intellectual Property is thus at a deadlock, highlighted by the General Director of the World Intellectual Property Organization, Francis Gurry, during a conference on *“The challenges of Intellectual Property in the Financial World”* held in 2010 at the Sciences Po de Paris Law School. The “old” and rigid monopolistic model is often found inapt to face the demands of today’s society favoring an evolutive capitalism; it must be modified and modernized accordingly.

Moreover, an increasing number of financial and regulatory players suggest a modernization of Intellectual Property Law by proposing to replace the “one-fits-all” system applied uniformly across all the sectors of the economy by alternate systems to that of the traditional. For instance, the creation of new protection regimes related to the filing procedure, prerogatives for titleholders in terms of extended protection rights on some inventions, based on the function of its field of application and finally, special and exceptional rules applied to specific industrial domains.

Advocate of this theory and a pioneer of an evolving principle leaning toward the creation of new protection models pertaining to the patent filing procedure for the past several decades, Michel Dubois is a fervent believer that Intellectual Property needs a lift to continue assuming its function, indeed, its modernization is a necessary fact that responds to a new financial environment. To that end, he created the Intellectual Passport CB Omnibus Volume merely two decades ago, designed for inventors, SMEs and large corporations. *“This innovation procures the only existing natural property to the author of an invention: ownership of a literary and/or artistic work, called Work of the Mind”*. The international movement that he has been steering for years with his team has borne the “World Inventors Club” that hones its efforts on regrouping and gathering within its association any physical person or company interested in a planetary liberalization of the access to Intellectual Property.

In a few years from now, new Intellectual Property formulas will become mainstream; indeed, that only a few years ago, remained unthinkable and improbable.

Salvatore Di Palma

A Doctor in Political Science, Salvatore Di Palma dedicated 35 years to the **World Intellectual Property Organization (WIPO)** in Geneva as a high-ranking international official.

During that time, as the Director of International Filings and Head of the International Information Administration Section, he participated in numerous conferences around the world aimed at elaborating global treaties in regards to international branding, designs and models, as well as designations of origin.