" Challenges are essential to growth! "
J.J. Servan Schreiber

In order to revitalize
the industrialised countries' economy
and enhance
the developing countries' commercial growth
one must democratise access
to intellectual property

Anteriority of a creation over invention is law

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Anteriority of a creation over invention is law

The Intellectual Passport ***(CB or IND)*** **Omnibus Collection**
does not replace patent or any other official title.
Better still, it precedes, and therefore is anterior to such titles.

Copyright law
is applicable to the creative literary and/or artistic work
describing the invention or original concept*

Such a description *(literary and/or artistic work)* **precedes**
the subsequently registered application for a patent
(or any other official title) **made by a third party**

Copyright law forbids third parties
to reproduce all or part of such a description *(literary and/or artistic work)*
for commercial *(hence industrial)* **purposes**

The author of such a description *(literary and/or artistic work)* **and owner of the work**
has the right to either assign or contractually license his reproduction rights
to third parties for commercial *(hence industrial)* **purposes**

The unpublished ** the Intellectual Passport ***(CB or IND)*** **Omnibus Collection**
allows third parties to register applications for a patent *(or any other similar official title)*
with the author's permission *(through assignment or license contract)*

* * *

*" **Patent** or **any other official monopolistic title***
does not forbid third parties to copy the description (texts and drawings)
of the invention, but its forbids them to commercialize it (monopoly)… "

*" **Copyright** forbids third parties to copy the description*
*(texts and drawings) of the invention or original concept * for*
commercial purposes; namely to actualise it (exclusive right). "

* * *

* **Original concept:** an invention that is not covered by patent or other official titles; e.g.: a service-oriented concept…

** **Non unpublished:** unlike the holder of a patent or other official monopolistic titles, the author legally owns his work by the mere fact that he created it… Ownership does not result from publication of the work… The author does not legally have to register his work. Creating the work automatically results in copyright. Registering a work at a national office or institute only serves to certify the date of its registration.

The 20 initial benefits of the Intellectual Passport Omnibus Collection

1 - Affordable price, comparable to the price of a national patent.

2 - Fixed price *(no yearly annuities to pay)*.

3 - The author's definitive, world-wide ownership *(i.e. perpetual)*, providing him free of charge with copyright for his entire life and 70 years after his death *(this 70 year period is valid in almost every country in the world; unlike a like utility patent which is valid for 20 years provided the inventor pays annual validation fees in each Nation where the said patent is registered)*.

4 - Unpublished in order to preserve the author's secrets.

5 - It proves the identity of the inventor as the creator of his work.

6 - A universal certificate of anteriority *(thanks to the history of the creator, testimonies of the actual creation of the original concept and the author's initial textual and graphic creations)*.

7 - The USD System consortium **guarantees** the legal validity of the IPCB.

8 - The author can use a pseudonym and encrypt the secrets of his invention.

9 - The IPCB is much simpler and less time-consuming to obtain than a utility *(or design*) patent.

10 - Unlike patent which cannot be modified, one can at all time and without time limit, improve the invention or original concept included in the IPCB.

11 - As a seizable personal property, the IPCB can be used against third parties, whether in or out of Court. It is the only means of preserving the author's secrets.

12 - In order to defend its clients' rights and use the IPCB against third parties, the USD System consortium created the Strategic Passport. First of all, in cases of illegal copy of his invention or original concept, it allows the author to settle his claim out of court rather than seek damages before a tribunal… As extreme circumstances may require, disclosing the author's secrets can prove very useful.

13 - Unlike patent infringement *(i.e. counterfeit)* cases ~ *which may prove lengthy and costly* ~ the IPCB's literary and artistic nature shifts the burden of proof on the illegal copier.

14 - In cases illegal copy is taken to court, trials therefore are shorter and cost much less.

15 - The business forecast is an ideal means for the author of attracting investors and, in case his concept/invention is illegally copied, of obtaining major material damages before a court of law or in an out of court settlement.

16 - In addition to the business forecast, a set of international contracts also proves the author's commercial intentions, thereby establishing his material damages in case he claims damages for illegal copy of his invention.

17 - The certificate of edition sent out *(by the editor who happens to be a third party)* within the week following the author's IPCB order and its related payment formally certifies the date of creation of the work.

18 - Co-ownership of the work of the mind *(between two or more employees and/or employees and employers within an enterprise)* is joint and cannot be divided. Therefore, a joint owner cannot legally *(directly or indirectly)* contractually transmit *(license)* or assign *(sell)* the innovation without agreement from the other co-owners. In case one of the co-owners betrays the others, the IPCB ~ *as a joint personal property* ~ proves the initial ownership of the work and therefore serves as an anteriority *(a precedent)* against any claim or theft of the concept/invention by a third party.

19 - Copyright provides a world-wide exclusive right to produce, reproduce and interpret a creative literary and/or artistic work; such a work can also include the *"description"* of an innovative concept. Legally, this description therefore *"***contains***"* the invention: i.e. it is the ***container*** of the invention. As an innovation, one can therefore not reproduce such an invention without the *"***content***"* *(which results from the* ***container****)*. Consequently, under copyright law ~ *unlike utility and design patent law* ~, there is no need to monopolize the aforementioned invention. As author of his original concept, the inventor enjoys universal ownership of his work, hence of his rights.

20 - Unlike the patent system, which mandatorily forces the title holder to actively use his commercial *(monopolistic)* rights and thus commercialize the patented invention, failing which he may be accused of abuse of monopoly and even face withdrawal of his rights, the author does not have to commercialize his invention *(even if it patented)*. Why is it so? Because copyright and royalties ~*somewhat like relations between parents and children* ~ result from a natural and therefore unquestionable property.

The Intellectual Passport Omnibus Collection is insurable, notably because:

- It provides a clear title resulting from a true **property**; thus it is a personal asset that can be used in a court of law; furthermore, it unquestionably identifies the author of the concept and resulting invention… Its **legal validity** is unquestionable and recognised worldwide.
- Given its non-publication, risks of fraud are kept to a minimum.
- It seldom requires patents or **property** held by third parties.
- Its business forecast (ICBF) allows the author to commercialise his invention internationally after having assessed its market;

Further reasons for being insurable:

- Because the editor is an independent third party.
- Because co-authorship of the book allows for greater control of **illegal transfers**, thereby ensuring safer relations between employers and employees.
- Because **copyright** provides new strategies that are stronger, less time-consuming and less costly for prosecuting and defending oneself in criminal courts. Notably in cases of unfair competition and industrial espionage.
- Because numerous court cases where third parties successfully used their copyright against utility or design patents, prove copyright's efficiency,
- **Because jurisprudence in favour of an Intellectual Passport CB** *(upheld in the Court of Cassation, i.e. France's Supreme Court)* **proves that the non-publication of a work helps preserve secrets**.

Advice from the USD System International Editions Consortium to the author of an invention or of an original concept

First principle: Until now, the majority of people have mistakenly thought that authorship results from the publication of their work, when, in reality, it results from creation.

Second principle: Loss of secrecy certainly is patent's *(or any other State-granted monopolistic title's * see following page)* major inconvenient.

Third principle: This is all the more so since a patent is legally valid solely in the country(ies) where it has been issued. One must assume the costs of international extension, country by country.

Fourth principle: The best solution is to acquire an book prior to filing a patent *(or another similar title: drawings and models in France, industrial design in the U.K., design patent in the U.S.)* application.

Reminder: The book allows one to legally prove the work's preponderant and world-wide anteriority *(precedence)* over the invention proper.

This is why, in spite of the loss of the initial secrets as a result of the patent *(or other title) system*, it is recommended that the inventor acquire an book: either 1) after filing a patent application *(or another title)*, or 2) after obtaining a patent *(or another title)*.

Given the foregoing, authors of inventions or original concepts are advised as follows:

If the author has already filed for a national patent *(or another title)* a few years ago, he can therefore acquire an book; it will cover the creative work preceding *(i.e. as an anteriority)* his invention. With an book, he can even extend the intellectual property of his original concept and resulting invention beyond the twenty year validity term of each of his patents or other titles *(i.e. for the rest of his lifetime and up to 70 years after his death)*.

Notwithstanding the loss of secrecy resulting from State-granted titles, the book provides many other advantages, which are summed up as follows:

1 - World-wide intellectual property of the author's initial creation *(description of the invention)*; notably in the countries where the patent *(or other title)* application has not been filed.

2 - The book, in which one can include any improvement subsequently brought to the invention without loss of secrecy, grants world-wide property of such improvements *(after its delivery, the book can always be modified throughout the author's lifetime)*.

3 - **In case of illegal copy of the invention in countries where the patent** *(or another title)* **application has not been filed, the author can prevent third parties from commercializing the invention. Why?** Because in order to legally make and sell the product of the invention resulting from the author's creation *(i.e. original concept)*, a third party must first have access to its description which is covered by copyright ©.

4 - In the country where the patent *(or another title)* application is filed, the book strengthens the author's rights. Why? Because, in addition to legal action for patent infringement *(or of another title)* against third parties, the book simultaneously allows him to take action for plagiarism of his work. The author may even sue the aforementioned third party(ies) for unfair competition. Moreover, the book provides other means of defending his rights: legally, plagiarism constitutes theft as well as imposture *(i.e. criminal acts)*. Should the copier *(i.e. the plagiarist)* modify the description *(literary and/or artistic)* of the invention, such distortion of the author's work might even be considered as vandalism.

5 - The USD System Consortium guarantees the book's international legal validity.

In brief: regardless of the date of filing of a patent *(temporary or definitive)* application or of its issuance, the author's creation *(in two dimensions **)* mandatorily precedes the ensuing invention *(in three dimensions)*. Invention results from creation. The book provides specific evidence proving this anteriority *(precedence)*: creation *(the source)* leading to invention *(the result)*. This is true even if the author never previously divulged to any one the literary and/or artistic quality of his work.

* * *

*** State-granted monopolistic titles:** these are State-granted temporary *(5, 10, 20 years)* commercial and industrial titles issued to the applicant provided he fulfills specific legal criteria. During its term, each of these titles grants its holder *(or his licensee, even his assignee)* a technical *(making, production, manufacturing, fashioning, assembling, actualization, etc)* and business *(sales, distribution, promotion, etc)* monopoly for the invention resulting from the actualization *(in three dimensions)* of the description *(in two dimensions)* included in the title. In compliance with the various national laws presently in force, these titles are called: utility patent *(or plain "patent")*, design patent, industrial design, designs and models, integrated or printed circuit topography. As for trade marks, they solely provide a monopoly for the commercial use of names, acronyms and logos, and do not cover production. Since these titles do not provide copyright, their holders must mandatorily claim anteriority *(precedence)*, failing which such titles cannot legally be issued. In case of litigation with a third party, solely the claims for anteriority *(precedence)* are at stake, leading ~ *as the case may be* ~ to the annulment of the title by court order.

Important: according to the international copyright conventions and the internal laws of Nations, if the description of an invention *(included in one of the aforementioned titles)* is identical to all or part of a literary and/or artistic work created prior to the application for the title, the court can subsequently annul such title for lack of novelty. If a third party reproduces all or part of a literary and/or artistic work in order to make or produce a utilitarian object or a commercial service, he must first contractually obtain the right © to do so, with the author's signature. Failing which, the author can by court order forbid the third party to reproduce © all or part of his work for commercial purposes; in which case the third party must cease making and/or producing the aforementioned object or service. Why is it so? Because in order to transmit the literary and/or artistic description included in all or part of the author's work to his partners and employees, the third party must obligatorily reproduce such description, for whatever technical or commercial reason.

**** Two dimensions:** notably texts and drawings. A sculpture *(in three dimensions)* also is a creative work of art which legally precedes the subsequent filing of a patent *(or other title)* application.

"Expressing the idea" or "Expressing the work"?

1. A frivolous statement: according to a fair number of jurists *(so-called experts in Intellectual Property)*, the theme of a novel's story is not be covered by copyright, only the manner in which it is written. They inopportunely reduce the meaning, even the extent, of the terminology *"***expression of an idea***"* applied to the Right on ideas, without realizing the contradictions that it implies. When the work is original, is te manner in which the story is told not bound to the plot?

2. In reality: the fact that an author secretly submits an original story *(e.g. a scenario or the libretto of a new theme that never existed before)* to a third party, along with a confidentiality and non-disclosure covenant included in the work and signed by both parties *(i.e. author and third party)*, does not allow the third party to steal the original theme of the story by changing the characters' names, its era, etc. Otherwise, confidentiality and non-disclosure covenants prepared by lawyers would be a hoax and there would be no scenario writer. One could steal scenarios without any risk of being caught and the name of the scenario's writer appearing in the credits of a film would solely be that of an impostor. Consequently, films as well as any kind of audio-visual presentation would not be covered by copyright.

What applies to the author of a creative literary or artistic work also applies to the author of an industrial or service-oriented original concept, once he includes his creations in an book.

The idea cannot be dissociated from the work.

Thus, much like the characters and objects created by Walt Disney, any other two-dimensional drawings of original characters and/or objects that are included in literary and/or artistic works as part of albums that one cannot dissociate, such as Superman, Batman, Tintin *(see Professor Tournesol's shark-like submarine)*, are covered by copyright; a third party cannot reproduce them in two or three dimensions without the author's or his heirs' and legatees' expressed authorization.

Hence, an original story cannot be legally produced, reproduced or interpreted without prior authorization from the author of the texts and drawings that, *" together, as a unit"*, constitute the "**expression of a work**", and, logically, of the *"*idea*"*, **not the reverse**. The same applies to the reproduction and interpretation of pictural works, such as the melting watches in Salvador Dali's *"The persistence of memory",* for example, etc…

Apart from the aforementioned, there is a jurisprudence, rendered by the Supreme Court of Canada* stating that the written user guide in a work covered by copyright forbids the commercialization of a resulting object *(in three dimensions)* by a third party without the expressed authorization from the author.

* Supreme Court of Canada: Paul Trudel vs. Clairol Inc. of Canada (1975) 2 SCR 236

Copyright or Authors' Rights?

As written, the *US Copyright Act § 102 b)* gives a misleading notion to copyright.

US Copyright Act § 102 b) (US Code, Title 17) : *"In no case does copyright protection for an original work of authorship extend * to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work".*

* " extend " does not mean the loss of copyright for a work. Merely its limit

Confusion: to call "authors' rights" "copyright".

These two terms do not have the same literal meaning; nonetheless, according to International Copyright Conventions, they are supposed to express the same rights for a same physical person: **the author**. Indeed, without the **author**, the law governing copyright would not make sense… In a bilingual country like Canada, its citizens *(and other inhabitants)* are governed by the same Law, whether it is written in English or in French.

In French, "*droit d'auteur*" refers to the author as a physical person, while in English *"*copyright*"* makes no obvious reference to a person even if authors' rights are a part of copyright law. Notwithstanding the fact that the word "copyright" does not accurately define its full legal significance, it is a matter of common knowledge that wherever he lives *(and works)*, an English-speaking composer, playwright, film writer, etc. enjoys the same authors' rights, both moral and patrimonial, than his francophone colleagues, for his entire life and 50 to 70 years after his death *(e.g. Walt Disney)*, depending on the specific internal laws of Nations.

Article 64 of the Canada Copyright Act: *" Where copyright subsists in a design applied to a useful article or in an artistic work from which the design is derived and, by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere: (a) the article is reproduced in a quantity of more than fifty, or; (b) where the article is a plate, engraving or cast, the article is used for producing more than fifty useful articles; it shall not thereafter be an infringement of the copyright or the moral rights for anyone;(c) to reproduce the design of the article or a design not differing substantially from the design of the article by; (i) making the article, or; (ii) making a drawing or other reproduction in any material form of the article, or; (d) to do with an article, drawing or reproduction that is made as described in paragraph (c) anything that the owner of the copyright has the sole right to do with the design or artistic work in which the copyright subsists. "*

Comment: A mere glance at this text might indicate that reproducing drawings representing useful objects does not constitute copyright infringement. Nevertheless, one must remember that this article is valid if and solely if the drawing s are reproduced: *" ... by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere ... "* As for the fifty samples, they devolve on the operator *(i.e. the person who commercialises the samples)* and not on the author.

Article 64.1 of the Canada Copyright Act: *" The following acts do not constitute an infringement of the copyright or moral rights in a work: (a) applying to a useful article features that are dictated solely by a utilitarian function of the article; (b) by reference solely to a useful article, making a drawing or other reproduction in any material form of any features of the article that are dictated solely by a utilitarian function of the article etc…"*

Comment: This article only mentions utilitarian objects and utilitarian functions. In other words, article **64.1** allows reproduction if it is dictated **solely** by a utilitarian article. However, article **64** of the same law states that reproduction **without the prior consent of the title holder,** is illegal if it is dictated by an artistic drawing representing a utilitarian article.

The Berne Convention, art. 2 : *"It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form."*… **Indeed, what is the purpose of the word *"… protected … "* in this sentence?**... It would have been much simpler to write: *"It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be valid unless they have been fixed in some material form. ".* Laws **L 111-1** to **L 217-3** of the intellectual property code categorically confirm this point. Otherwise, the **Asterix** Park might as well cease its operations; likewise, Hergé's editor, **Casterman**, would have serious problems…

* * *

It is partly the reasons why the Legal texts of the Berne Copyright Convention *(9 September, 1886)* and of the Universal Copyright Convention *(6 September, 1952)* are under the sovereign control of the **W**orld **I**ntellectual **P**roperty **O**rganization *(WIPO)*, which sits in Geneva, under the UN's aegis.

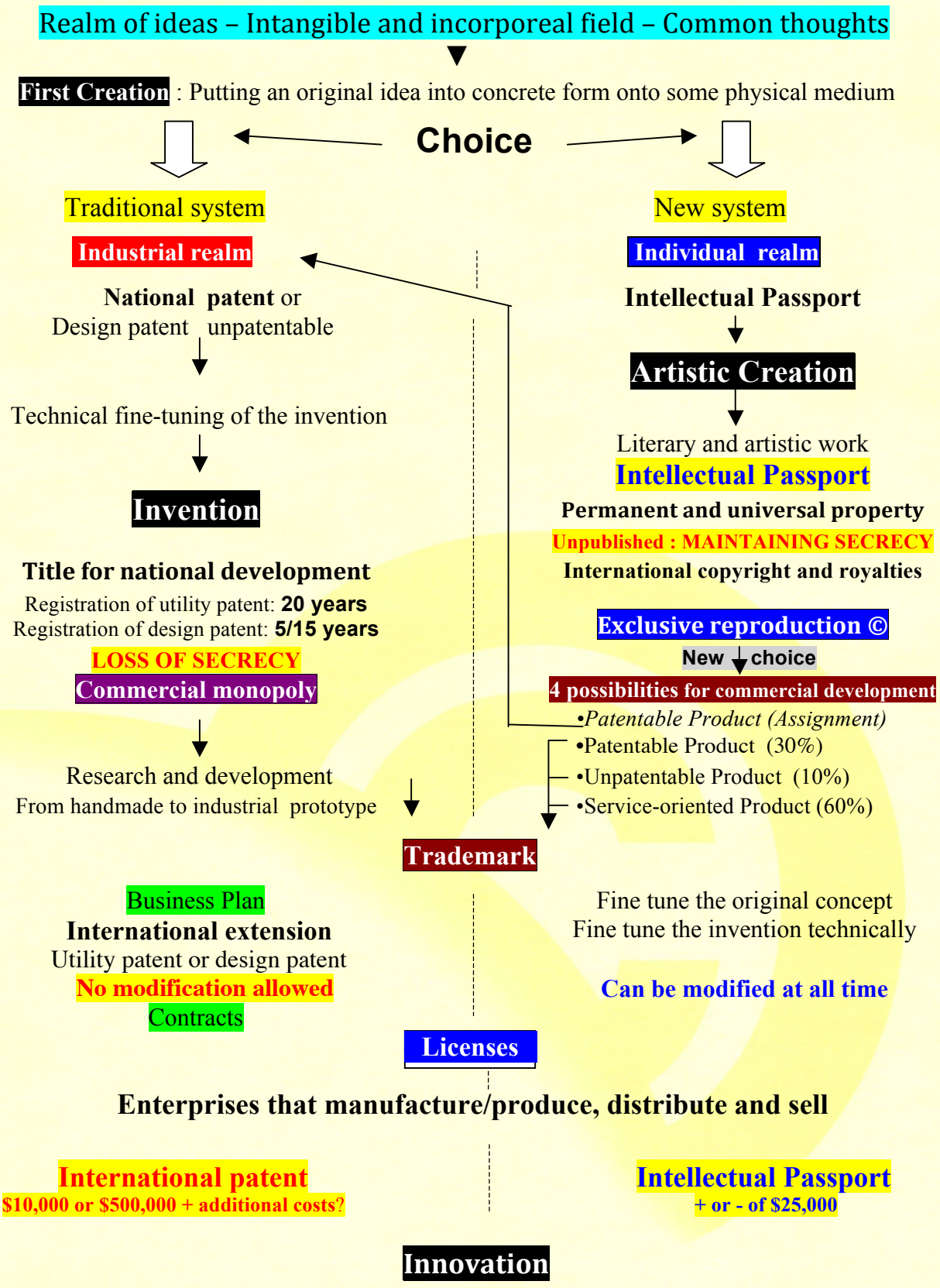
* * *

The Intellectual Passport Omnibus Collection
does not replace utility patent; even better, it precedes it.
The creative work included therein is anterior to the invention!

Sequential order: Creation ► Invention ► Innovation

*** Works of the Mind** are classified as original, and therefore creative, works of art. Moreover, in order to provide its author with the resulting exclusive right "**copyright**", such a work must truly be **literary or artistic**; this is why it must comply with the specific techniques and rules that govern a given art. It is the only way of making it comprehensible to interpreters or readers. Merely writing sentences or drawing shapes is therefore insufficient to establish an author's work as a work of art, let alone a **Work of the Mind**.

Sequential order from idea to innovation



The sequential order described above: Idea ►Creation ► Invention ►Innovation