Capsule 9 **Our first Jurisprudence**

Madam, Sir,

In order to help our clientele in case of plagiarism and/or unfair competition, we created the **Strategic Passport CB**. It is an epistolary service that we offer solely as editors. Such a service notably aims at avoiding for our clientele the costs of a useless, long and expensive court case. If the copier acknowledges his misdeeds during our intervention, our attorney settles out of court the case in question. Should the case proceed in a court of law, we recommend that our client hire a lawyer whose task will be made easier thanks to the elements making up the Strategic Passport that will have been created prior to the court proceedings.

Out of several hundreds *Intellectual Passports* delivered, there have been only height ***Strategic Passports*** in thirteen years. **Why have there been so few?**

In the first place: Because the non publication of the book, does not prematurely inform competitors as utility patent does; it discloses the innovation solely after the product has been commercialized.

Secondly: Because, unlike patent which concerns the **invention**, copyright relates to the creator who, as **a person, owns his work**. His ownership being universal and subject to penal *(i.e. criminal)* law, predators are not tempted to copy it as they do with utility patents or design patents *(industrial designs in British countries and designs and models in Continental Europa)*.

The **third strategic passport** proved to be the best, since it provided us with our first court case. In this matter, a French **creator** *(author of a prototype Intellectual Passport)* tried, with our help *(Autumn 2000)*, to settle out of court the plagiarism of a city-oriented furniture, which he had included as his **creation** in 1994 in an **unpublished** literary and artistic work entitled " *Change the city* " *(librairie bleue editions, library of inventions, N⁰ 2221, Troyes, France)*.

The copier had learned of the innovation in early 1997, namely, during the year following its public commercialization. After verifying at the NIPI *(France's **N**ational **I**ndustrial **P**roperty **I**nstitute)* that this innovation had not previously been registered, he thought that he could successfully claim its commercial rights by registering a model of it *(industrial design or design patent)* on July 31st, 1997.

Failing to acknowledge his plagiarism and anxious to fight, the copier *(with the help of major industrialists)* took a legal action against our client's ~ **the creator's** ~licensees *(Slymag Super U, East Regional Central Branch, System U, and A.D.I.)*. Having followed my strategy, his lawyer, Mr. Leclerc, accepted to use my original defense method which I proposed as an editor and an expert in copyright. Our client was represented solely as an **author** or **creator**. Never as an inventor. Legally speaking, this nuance is basic.

First of all, the copier came to Paris upon Mr. Jacques Azéma's request ~ *our Lyons-based lawyer, a professor and one of Europe's authorities in intellectual property* ~ who accompanied him at Mr. Leclerc's law-office, where the creator had left his book. Since the book had not been published, Mr. Azéma wanted to make sure that the artistic creation, subject of the litigation and included on page 129 of the work, truly existed. After verifying such facts, Mr. Azéma explained to his client that the unpublished work's **creation** was legally well founded as anteriority against a subsequently registered monopolistic title. Some time later, the copier having persisted in his legal claim, Mr. Azéma withdrew from the case.

Nonetheless, the copier hired another highly reputable law firm in order to pursue his claim; such a case ended on September 30st, 2003, *(after one single Court appearance and six months' wait for a hearing)* with a judgment from the Lyons Business Tribunal in favor of the **creator**'s copyright, dismissing the copier's claim **for lack of novelty** in the model N^0 974631, which he had registered at the NIPI. **Important:** in addition to the title's annulment, the judgment forbade the copier to commercialize *(i.e. make and sell)* the product.

Unsatisfied with this judgment, the copier appealed it. The appeal, which was pleaded on April1st, 2004, confirmed seven months later the judgment in favor of the **creator** ***(Court of Appeal of Lyons, France, May 27st, 2004, R.G. 03/06633)***… Still unhappy with such results, the copier asked for permission to appeal this judgment before the Cassation Court *(France's Supreme Court)* which confirmed the Court of Appeal's judgment ***(Court of Cassation's judgment Ref: 05/4797 DCI July 4st, 2006)***. In brief, Justice was rendered fast, well and at a minimal cost: ten months for the first action, seven months for the Appeal and twenty-five months for the Cassation judgment. Over all, forty-two months, from the beginning of the action until the Cassation Court's judgment.