Expressing the idea or the work?

Madam, Sir,

According to a fair number of jurists *(so-called experts in Intellectual Property)*, the theme of a novel's story is not covered by copyright, only the manner in which it is written. In saying so, they use the terminology ″**expression of an idea**″ in a wrong sense and reduce it to a single meaning, without realizing the contradictions that it implies. **When the work is original, is the manner in which the story is told not bound to the plot?**

Answer: the fact that an author secretly submits an original story *(e.g. a scenario for a movie, a libretto for a new play, comics, etc.)* 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 in any shape or form would not be covered by copyright. By merely enumerating such improbabilities, it becomes clear that, if they were right, **those who restrict** copyright to the way in which a story is told would promptly:

- put every film and audio-visual scenario writer out of work;
- deny every writer, including novelists, journalists, poets, play writes, as well as graphic artists and cartoonists, painters, sculptors, photographers, composers, etc., whose work has been the subject of a film, a video, an audio-visual work, the right to claim copyright, hence royalties. The same applies to the *″remake″* of a film that, as everyone knows, requires the initial scenario writer's authorization;

If the manner of telling a story is not bound to the plot, lawyers who represent writers, artists and authors of software would lose their clientele, whenever the latter's works are plagiarized. In brief, who gains from saying that, in "the expression of an idea", the theme of a story is not covered by copyright, but only the way in which it is told? Interestingly, the scenario *(for the theme)* and the dialogue *(for the words)* are sometimes written by two different people. Could there be confusion between ″the expression of an idea″ and ″the expression of a work″? Who is trying to restrict copyright's legal significance, if not the patent lobbyist and his accomplices?

When an artistic creation is part and parcel of a literary work, it also is covered by copyright, by the mere fact that it is intrinsic to the work; in other words, it cannot be removed from the literary work. That is what one calls, ″**the unity of art principle**″. The same principle applies when a literary creation is part and parcel of an artistic creation… The idea contained therein 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, are covered by copyright; a third party cannot reproduce them in two or three dimensions without the author's or his heirs' and legatees' express 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 ″original idea″ that it contains. The original idea is part and parcel of **the expression of a work**, not the reverse. *(See case 'Robinson vs. Cinar Corporation', which was found three times in favor of the author – i.e.: Superior Court of Quebec, Court of Appeal of Quebec, Supreme Court of Canada)*. 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… Only once the work is out of copyright *(50 or 70 years after the author's passing)* can a writer start anew earning royalties by telling the same story in a different manner, without including the original idea. According to a judgment rendered in 1975 by the Supreme Court of Canada, even the end-user's operating and maintenance instructions can be covered by copyright.

Conclusion: What applies to the contents of a creative literary or artistic work also applies to an original concept, once his description is intrinsically linked to the work included in the **Intellectual Passport (CB** or **IND)** omnibus.

Why is it so?... The reason is simple: Having hired our services, the inventor becomes author of the literary and artistic description of his original concept, which in turn cannot be dissociated from his entire work, since the description is intrinsic to such a work. According to the principle of " **the unity of art** ", dissociating the description from the rest of the work would damage its unity, since it would alter its nature. That is why the author *(our client)* enjoys the copyright and royalties related to the "**expression of the work**", whether his original concept is technical, technological, computer-related, industrial, etc… or simply commercial.