

What is Intellectual Property?

In order to avoid common misconceptions about Intellectual Property, one must begin by understanding the meaning of several key words or expressions. Otherwise, the subject risks remaining a tangled web of contradictions and incoherence. In order to help the reader familiarise himself with the meaning of such key words and principles, the following explanatory text provides an answer for each of the 10 most frequently encountered questions in the realm of Intellectual Property.

These questions constitute a logical approach aimed at demystifying the subject:

1) Question : *What is an Intellectual Property?* **Answer:** An Intellectual Property is a creative work, which is owned naturally by its author.

2) Question : *What is the field of Intellectual Property?* **Answer:** The field of Intellectual Property entails the progressive application of commercial, legal and judiciary rules that define the laws governing human creation, invention and innovation.

3) Question : *What is the difference between **creation**, **invention** and **innovation**?* **Answer:** **Creation**, from create: to bring an innovative concept into existence – mentally forming an original idea or concept, one that didn't exist previously, and then bringing it from its virtual form into a tangible form; a tangible result of human creative intuition; a creative work – a work of the mind. **Invention**: the act or process of inventing; ii) from invent: to find or discover (*from its Latin root*); iii) a device, contrivance or process originated after *study and experiment (i.e. a discovery process; research and development)*; iv) an innovative product or service resulting from the development of an original concept that was put into tangible form (i.e. the creation); **Innovation**, from innovate: to introduce an original product or service (*the invention*) into the market. ~ One can't help but notice that *innovation* comes last after *invention* which in turn follows the initial *creation*. ~ This demonstrates a natural “*upstream to downstream*” relationship, much like wine results from grapes. There is a natural and logical order: **creation ► invention ► innovation**.

4) Question : *How does one determine the true owner of Intellectual Property?*

Answer: Through the proof of authorship of an original concept put into tangible form (*i.e. the creation*). To determine ownership, one must identify the true author (*the funder and not the finder*)... The author is the one who expresses his original concept within a creative work, his *natural property*.

Why must one establish authorship? **Answer:** Because, much like the link between parents and children, the rules of Intellectual Property are based on the principle of **anteriority**... This is why the validity of a patent depends entirely on the applicant's (*i.e. presumed author's*) claim to **anteriority**.

5) Question : Question: *Can a patent holder's (or any inventor) claim to anteriority automatically establish author-ship of his invention and therefore result in copyright?*
Answer: No! Even though a patent may be made up of original texts and drawings, patent does not concern itself with human creativity and can therefore not provide its holder with copyright.

Why? Because according to the international conventions on copyright and most countries' national laws, only the author of a creative literary or artistic work ~ i.e. a **Work of the Mind** ~ can claim *the one and only true natural* copyright. ~ This legal point is important: it implies that the act of writing sentences or sketching a technical device does not systematically result in a *Work of the Mind*.

6) Question : *What is a Work of the Mind?* **Answer:** A *Work of the Mind* is a creative work of art. An excellent copier of works of art is an artist who does not create an original work. A work of art that is not creative (*i.e. not original*) is not a *Work of the Mind* since it does not result from creative intuition... Moreover, in order to allow the author to claim its resulting specific and exclusive rights, such a work must be artistic; the author must follow the techniques and rules that govern a recognised art, notably in literature or music. Otherwise, the reader or the performer will not comprehend the work. Once again, this demonstrates that mere act of writing sentences or drawing shapes or figures does not constitute art or result in a work of art, let alone a *Work of the Mind*.

7) Question : *How can the author of an invention claim copyright?* **Answer:** Through the authorship of a *Work of the Mind*.

How can an inventor become the author of a Work of the Mind? **Answer:** By creating a literary and/or artistic biographical work that explains the origin and describes details of his innovative concept.

8) Question : *If, like in most cases, the inventor does not master the techniques of literature and graphic arts, how can he become the author of a Work of the Mind?*

Answer: By hiring a ghost writer, who will write his story for him. This service is provided by editors/publishers world-wide. ~ The **International Consortium of editions USD-System** provides inventors and creators of any new concept with this service in order to provide him with his **Intellectual Passport CB**. The ghost writer's (*also called Interlitt, i.e. interpretor in literary works*) task is to transcribe the inventor's story and original concept in a literary text (*i.e. according to the rules of the art*); similarly, the inventor can independently hire a graphic artist, draftsman, etc... to apply his art to illustrate the inventor's original concept.

9) Question : *What are the benefits of establishing one's authorship of a creative work prior to inventing the product or service that follows?* **Answer:** The benefits are considerable! **a)** Ownership is free of charge; **b)** It is also non-transferable (*universal and permanent*); **c)** Copyright results from this universal ownership; **d)** Copyright is free of charge and international. It is valid for the author's lifetime + 50 to 70 years after his death (*depending on the country*); **e)** Copyright provides world-wide and exclusive property; **f)** This **worldwide exclusive property** notably provides the author with the exclusive right to reproduce © all or part of his work, without which one cannot make or mould a part of the resulting product, nor can one transfer operating instructions/user's manuals or methodologies (*marketing strategies, sales techniques, etc.*) to third parties.

10) Question : *In comparison with a Work of the Mind, is patent the property of its holder?* **Answer:** No! Patent (*Government/State property*) is a **title** of monopolistic commercial exploitation that is issued to the presumed author of an invention (*i.e. the inventor*). It grants a right to a **national monopoly of commercial exploitation**. It must be purchased nationally; it can then be extended country by country, presuming one has substantial financial means. A State-granted privilege that overrides the "free market" principle, such a **monopoly** is only granted on a temporary basis (*i.e. twenty years*). This **monopoly** also imposes disclosure and therefore **loss of secrecy** for the inventor. Patent, in itself, does not provide protection since, in the case of infringement, it is the patent holder that must defend (*i.e. protect*) his title in court. For the most part, only major enterprises can afford to establish, use and defend the **monopoly** granted by patent (*or other such titles*). The total costs associated with patent are much beyond the means of small or medium-sized enterprises, not to mention independent inventors; these entities only need proof of intellectual property, in order to defend and claim their rights.