

## Two hundred years of deception Protection = illusion

Contrarily to popular belief, systems of patent and design patents (*industrial designs*) were originally intended to disclose and divulge technology; this process provides specialists of technological vigil (*corporate intelligence gathering*) with an ever-emptying and replenishing data bank that is somewhat difficult to handle but made easier through the interventions of a specialist (*i.e. a patent agent*).

The mandatory disclosure of utility patents and design patents constantly provides the international catalogue of technology with new supplies of data, thereby serving the interests of those participating in technological vigil. Most inventors are totally unaware of such efforts.

Prior to getting to the heart of the matter, one must understand how the public has been conditioned to believe blindly in the notion of "*protection*". Even the most lucid-minded people are subject ~ albeit unknowingly ~ to this subtle form of brainwashing.

It is interesting to notice how people were gradually led to forget *that "law is based on ethical and logical principles"*, this amnesia is most notable in matters of intellectual property. What of the natural rights associated to any form of intellectual property? This is why the **USD-System** editors feel it necessary to explain to their readers how, since 1791, the primacy of moral rights has been arbitrarily and artificially subjugated by material interest...One may say in their defence, that, during the industrial era, legislators had no choice but to serve the interests of a system which promoted economic and social progress.

### **"Protection": A wide-spread myth of the industrial era A subliminal form of mind control**

Thanks to mankind's evolution from the industrial era to the era of communication, we are now poised to adapt ourselves to fundamental and inevitable changes in attitude, enabling, as initially intended, the practical application of the "*Universal Declaration of Human Rights*", and not simply a unanimous appreciation of its inherent virtue.

The present work, it should be noted, examines first and foremost invention's important contribution to the development of human civilization, as well as the specific meaning of "*ownership*", which one must not mistake with "*protection*"... This subtle nuance has led Nations to call the institutions, which provide services in this particular field, "*Intellectual Property Office*" and not "*Intellectual Protection Office*"...

One can only praise philosopher Henri Bergson for having clearly expressed a basic element of logic: namely, the sequential relation that is intrinsic to the principle of cause and effect, or of the upstream and the downstream: *"the human spirit that gave rise to invention allowing man's dominion over the material world"*... This necessarily implies a unity of **art** (the application of various regulated means or techniques that serve to materialise a **creation**: a new work), **function** (an active process inherent in an **invention**: the technical development and fine tuning of the creation) and **utility** (the inherent ability of the invention to satisfy human needs, which can only be manifested through **innovation**: successful commercialisation of invention). Art, function and utility therefore cannot logically be dissociated. Any dissociation is therefore based on imaginary principles or otherwise fantasist theories.

**The following principle emanates from the two international conventions on Copyright** (Berne and Universal): *Every Work of the Mind is the private property of its author ...* Why is this so? Because an original idea put into tangible form ~ using a physical medium ~ represents the most fundamental kind of property... Much like parental filiations, which no one can deny, the *Work of the Mind* is also undeniable, since it is as consubstantial to its author as the child is to his parents... The author's natural ownership of his work is based on this consubstantial nature. Resulting from natural law, this property, which no one can purchase through payment, remains permanently inalienable...

***In short, the Work of the Mind is a private property that is free of charge, universal, unalienable and permanent. Therefore, by definition, the third party who copies such a work violates private property and steals its content...***

To better serve the industrial dictate required the introduction of a new language that could surreptitiously obscure ethics and basic logic... Indeed, acting discretely increases one's chances of going unnoticed and maintaining credibility... In this way, virtuous principles were twisted into perverse theories. Because it began over two hundred years ago, this insidious ambiguity has become a part of our language, to such a point that often, one contradicts oneself without knowing it... (on the web site of one of Canada's most reputable patent agents ~ <http://www.robic.ca> ~ one finds the following explanation: *"What is a patent? One can define a patent as a temporary property deed...* then on page 6 *...By its nature, patent is a form of contract between, on the one hand, the inventor and, on the other hand, the public represented by the government...*" Far from wanting to criticize this prestigious specialist who, like everyone else, is subject to the same circumstantial conventional values, I merely ask myself the following question: what is a temporary property? Either one owns something or one does not. Furthermore, the notion of a contract contradicts the essence of property... A more suitable term might be a *"lease"* or better still, in this case, a *"licence"*... Ultimately, this ill-conceived notion of property confuses what used to be a crystal-clear subject... As a result, one finds irrational statements in the legal treatises on intellectual property, which lead to endless debates on the matter. These debates in turn bring about incoherent and contradictory rulings...

Examples are legion ~ every jurist knows this (e.g. see the *Tri-Tex* case). Hence my use, in the present work, of italics and quotation marks such as to not confuse *"property"* with *"protection"*.

**According to the dictionary:** property, from the Latin *proprius* (*belonging*), *that which belongs exclusively and specifically to someone, to a thing, or to a group...* Beyond fraudulent acquisitions, which are clearly criminal, one cannot question the principle of ownership of property without running the risk of denying obvious truth.

**According to the dictionary:** protection or being protected, from the verb "*Protect*" from the Latin *protegere*, (*shield in front*), *that which is sheltered from attacks, from ill-treatment, from danger (physical or moral)...* Antonymous to *protect* is, among others, the verbs "*to uncover or to expose*" – Why? Obviously, what is uncovered is automatically exposed to everyone's interest, hence to danger... Disclosing without proof of ownership also prematurely exposes one's original concept. **As a result of the foregoing, disclosing an invention is contrary to protection.**

In order to deny such a statement, an expert must prove that the mandatory disclosure resulting from utility patent or design patent shelters the inventor from copiers. **Hence the widespread use of secrecy by all those who fear disclosure.** Indeed, if a title of monopolistic commercialisation, such as a patent (*which belongs to the State, not to the inventor*), offers real "*protection*", it would literally "**prevent the inventor from having to take court proceedings**" against copiers. Much like a real estate title deed, its mere filing in court should maintain the inventor's monopoly... Likewise, Design Patent would then provide similar "*protection*"... In this case, and only in this case, does the word "*protection*" make any sense... Unfortunately, everyone is aware of the high costs required to defend oneself in a court of law. In the present work, we shall therefore constantly highlight the perverse effects of the word "*protection*", frequently used in an abusive way solely for fraudulent purposes, including breach of trust... One will also notice that pimps, blackmailers, racketeers and dictators have always used this word (*the notorious S.S. officer Reinhard Heydrich, considered by Hitler as the ideal Nazi, was named "Reichsprotektor" of Bohemia-Moravia (i.e. appointed by the Third Reich to "protect" the occupied population)*).

In a linguistic sense, it is no accident that the same word is used in such different contexts of abuse of power. Such principles of "*protection*" are based on a distorted interpretation of justice...

The reader is urged to consider the ethical commitment made by the representatives of the *Intellectual Passport C.B.*... This commitment consists in replacing, as often as necessary, the word "*protection*" or "*protect*" by another more appropriate word based on the context. **For example:** One cannot "*protect*" an invention by registering a patent or a design patent since such titles only provide a monopolistic privilege, which its holder must then protect in court... Copyright is not a "*protection*"; it grants the owner of a Work of the Mind ***the exclusive right to produce or reproduce*** his work. Such a right must also be protected in court. Generally speaking, in Intellectual Property, ***a right is not a "protection"***, but rather a legal means of publicly establishing one's ***private property***, either as a holder or an owner, in order to claim a monopoly or exclusivity. Neither monopoly nor exclusivity provide "*protection*", ***since both are temporary rights that one must protect in court*** ... One does not therefore "*protect*" a Work of the Mind by registering a copyright application, ***one registers its existence***. Likewise, in order to "*protect*" an invention in court, ***one either defends one's rights, one's title, or one sues the copier who counterfeited the monopoly or plagiarized the work***, etc... Moreover, since one must really protect one's patent (i.e. one's monopolistic right

*to commercialise*) in court, it seems paradoxical or even excessive that one should have to "*protect*" one's so-called "*protection*"... This is only one example of the incoherence of a system of intellectual property that is reaching its limits of absurdity...

Notwithstanding the foregoing, the constant evolution of international law results in more and more complex procedures of application. This in turn requires lawyers with greater competence, and court cases are therefore more and more costly... This growing complexity of the legal system increases the cost of justice, thereby making it less and less affordable to most people. Such a trend is totally anti-democratic, since people are less and less equal before the law.

Anyone who, even once, had to face a patent infringement case will draw the same conclusion: "***protection***" ***first and foremost depends on one's financial means rather than on justice.***

***Since preventing the root cause of evil is more important than repressing its effect, it seems imperative to establish the natural rights of the author of an invention by recognizing his initial property, prior to considering the rights of production that emanate from the initial property...*** As a practical approach, one must first associate the invention with its inventor, in other words, the creation with its creator, and therefore, the work with its author... (*i.e. identify the "true" inventor...*). This is in agreement with the American Patent Office, since its policy is to grant patent to the Author (*i.e. originator*) rather than to the first claimant. The Intellectual Passport C.B. provides a literary and artistic work in which a description of the invention is included as part of the author's biography... In order to challenge such evidence, one must provide a more tangible proof of prior possession than that of the author.

To conclude this introduction, the reader should bear firmly in mind the aforementioned reasons why we always write the word "*protect*" or "*protection*" in italics and in quotation marks. This applies to the present work as well as to other documents created by **USD-System Editions**. The only exceptions are in cases where it is used judiciously or where it is quoted from a third party's book, a columnist's report, a legal treatise or a text of law. As the author of the *Intellectual Passport C.B.*, I have taken the liberty to write these prolegomena because I know from experience that the unconscious mind of the reader could lead him, by habit, towards misinterpretation if he was not ipso facto reminded, through a mnemonic device, of the perverse effect of this misused word (*i.e. protection*).

**Michel Dubois**

## **With regards to the texts of the present publication**

The authors of the present publication aim first and foremost to liberalize access to intellectual property by making it affordable to the general public and to distribute its benefits equitably among people, in consideration of their material or moral interests, in accordance with articles 1, 17, 22 and 27 of the Universal Declaration of Human Rights.

This published work is the result of its authors' research and analysis as well as a logical and philosophical approach used to formulate the criteria for validating a Work of the Mind, based on principles established by the Berne Convention and the Universal Convention on Copyright.

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