



" 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
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The unpublished ** Intellectual Passport CB
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 it 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** **Non unpublished:** unlike the holder of a patent or other official monopolistic titles, the author legally owns his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. **Comment:** only in the USA, can
one register a patent application within a year of the date of publication.

The 20 initial benefits of the Intellectual Passport CB, also called IPCB

- 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 monopolise 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.

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 Intellectual Passport CB 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 Intellectual Passport CB 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 Intellectual Passport CB: 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 Intellectual Passport CB; it will cover the creative work preceding (*i.e. as an anteriority*) his invention. With an Intellectual Passport CB, 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 Intellectual Passport CB 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 Intellectual Passport CB, 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 Intellectual Passport CB 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 Intellectual Passport CB strengthens the author's rights. Why? Because, in addition to legal action for patent infringement (*or of another title*) against third parties, the Intellectual Passport CB 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 Intellectual Passport CB 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 Intellectual Passport CB'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 Intellectual Passport CB 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.