



" Challenges are essential to growth! "

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COPYRIGHT – LAW JURISPRUDENCE

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**In order to revitalize
the industrialised countries' economy
and enhance
the developing countries' commercial growth
one must democratise access
to intellectual property**

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Copyright – Law – Jurisprudence

Basic principle: Within a Nation, the only valid reference concerning copyright is its Copyright Law. Once such a Nation becomes a member of the International Conventions (*World Trade Organization, World Intellectual Property Organization, Berne Convention for the Protection of Literary and Artistic Works, Universal Copyright Convention, Universal Declaration of Human Rights, etc*) its Copyright law ~ in compliance with the international conventions ~ has precedence over the jurisprudence of its courts, with regard to other Nations. Why is it so? Because the international agreements between such a Nation and other signatories have legal authority over the principle of national sovereignty, hence over said Nation's internal jurisprudence *.

* **Comment:** Intellectual property being a very recent discipline, most jurists and judges have not yet had the time to fully analyze it; this explains why, when asked to decide on questions concerning intellectual property and copyright, tribunals ~ even within the same jurisdiction ~ often render contradictory judgments. Therefore, until now, the wealth of jurisprudence either in favor or against copyright infringement in industrial or business environments has proven strictly nothing.

In the majority of cases, copyright dismissal in a court of law is due either to absence of literary or artistic property or to some misunderstanding of its scope and limits. For example:

- a person who created a work that is neither literary nor artistic and therefore has no copyright (or ISBN);
- a person who registered a copyright (or an ISBN) on a creative work that is neither literary nor artistic;
- a person who, having made a truly literary and/or artistic work that is not original, has no copyright (or ISBN);
- a person who registered a copyright (or an ISBN) on a truly literary and/or artistic work that is not original;
- a person who, with or without copyright (or ISBN), claims authorship of a work that he has not yet created;
- a person who, with or without copyright (or ISBN), claims that his truly literary and/or artistic creative work grants him the same rights as patent (or other monopolistic titles).

Comment: frequently, people sue third parties for non-existent intellectual property and its (*also non-existent*) resulting copyright (*hence royalties*). Such people claim that their creations are an intellectual property automatically granting copyright (*hence royalties*). Moreover, certain people also plead that copyright protects an invention in the same way as patent (*or other monopolistic titles*)... Even corporate giants such as L'Oréal made this mistake.

Essential information

1 - Each original Work of art is the result of a precise technique without which the author could not create his work properly and without which the interpreters could not understand, produce or reproduce it. On that account, in order to enjoy intellectual property and its resulting copyright, the author must create an unquestionably literary or artistic work.

2 - One cannot buy copyright!!! Much like parental links created sequentially between the parents and their children through procreation, copyright results sequentially from the production of a work created by its Author... Registering a Copyright © or filing an ISBN is merely an administrative act acknowledging the creation of a Work of the Mind by its author; thereby establishing beyond question its existence and date of creation.

3 - "Patent" is the name given to a State-granted medium allowing the inventor to describe his invention. Dismissal of a patentee's legal suit solely affects the invention. It does not affect the patent, which serves strictly as a medium allowing the inventor to describe his invention. Patent does not provide copyright; rather, it grants a commercial monopoly not on the description of the invention which is disclosed by the State, but on the invention itself.

4 - "Intellectual Passport C.B." is the name given to the medium (a collection of books produced by the USD System International Editions Consortium) allowing the creator to have his creation printed. Dismissal of a false creator's legal suit solely affects his copyright (and resulting royalties). It does not affect the Intellectual Passport CB, which serves strictly as a medium allowing the author to have his creation printed. The description of the creation (i.e. original concept) ~ intrinsic to the literary and/or artistic work printed in the Intellectual Passport ~ naturally allows its creator to enjoy his rightful due: copyright.

5 - The "Intellectual Passport CB" therefore is the name given to a legally valid book collection. Its commercialization does not require the validation or the approval of a superior legal authority. It is strictly a literary and artistic work complying with the law governing edition

6 - In certain countries (e.g. Canada), one can obtain a copyright number for an unpublished work, without guaranty that the work either exists or that it is literary or artistic. On that account, there are people who receive a legal copyright number for a work that does not exist. Some private enterprises do likewise. This form of swindle exists since a long time. This kind of copyright registration is not very expensive (a few dollars or euros). Swindlers earn their profits from the amount of victims. If such procedures were sufficient to provide true intellectual property, why do high tech enterprises, pharmaceutical laboratories and other industrial giants continue to spend colossal amounts in patents?

7 - One must conclude that the judgments rendered until now by the various courts of one or several Nations resulted in contradictory jurisprudence, which are highly precarious and totally unreliable. This proves that such jurisprudence changed nothing to the basic issues at stake, while costing dearly to tax-payers and parties in court.