

" Challenges are essential to growth! "

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Why must one use the Intellectual Passport CB?

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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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Use the Intellectual Passport CB for more justice!

1 – According to the international copyright conventions and the internal laws of Nations, the following legal principles apply world-wide: Intellectual property is based on preponderant anteriority (*precedence*). American law and other legal systems world-wide ~ *in compliance with the aforementioned international copyright conventions* ~ were created according to the same principle: "Any Work of the Mind belongs to its author by the mere fact that it was created".

Patent does not provide copyright on the description of an invention. This is why applicants for patents must claim anteriority.

Copyright does not cover an invention's functional value. If the description of such functional value results from a true literary and/or artistic work, such description expresses the author's idea. In such a case, no one has the right to reproduce all or part of it for commercial purposes, without the author's prior authorization... Sequential chronology: Creation (*description*) ► Invention (*functional value*) ► Innovation (*introduction into the market*).

2 – From a practical point of view: An inventor who acquires intellectual property through the Intellectual Passport CB becomes the creator of a literary and artistic work which precedes any of patent's anteriority claims. In a plant or manufacture, one cannot possibly make a functional invention without reproducing its description for commercial purposes. Whether in an executive's office (*i.e. in order to transmit the relevant files*) or in a working environment (*i.e. in order to transmit the plans of the invention*), the aforementioned description is essential.

3 – Taking legal action: In order to make and commercialize a functional invention, a third party initially needs a copy of its description (*resulting from a creative literary and/or artistic work*); he must therefore obtain the right to copy © such a description from the author. Otherwise (*for whatever reason*), he violates copyright law. In this case, the author must undertake legal proceedings for plagiarism of all or part of his work for commercial purposes, or even for sheer imposture; the plagiarist may at times be sued for distorting the author's work, regardless of his excuses. Such legal action(s) must first and foremost prevent third parties from making and selling an invention without the author's contractual and prior authorization to copy his literary and/or artistic description for commercial purposes. This led to the very first (*and so far only*) jurisprudence where a plagiarist or counterfeiter questioned the Intellectual passport CB's validity (*France's Superior Court in 2003, Appeal Court in 2004 and the Court of Cassation ~ i.e. Supreme Court ~ in 2006*); each tribunal judged in favour of the Intellectual Passport CB. Since it remains unpublished, the only means to copy its content are espionage and/or unfair competition. Under such conditions, the plagiarist (*or counterfeiter*) can face dire consequences (*see the Robinson case, Canada*)

If an alleged author (*second in line*) claims that he created a work identical to that of an author of an Intellectual Passport CB: 1) the "second" author's work must unquestionably be literary and/or artistic; 2) two identical works cannot be created simultaneously; 3) the so-called author must prove anteriority (*i.e. that he is the original creator*). Only the original ~ *i.e. the actual creator of the work* ~ can claim " **Authorship** " (*author coming from the Latin auctor*) hence its resulting right: copyright. Nota bene: Never have two identical works been created simultaneously; indeed, such an occurrence is practically impossible. In the case of two similar creations, one must decide whether such similarity results from espionage and/or unfair competition. Reminder: even if Professors Luc Montagnier and Robert Gallo initially exchanged information concerning their joint research on the AIDS virus, the former was the first to write about his work in the American review " Science " (*three months prior to the latter's patent application*), and could therefore claim authorship of the discovery. Professor Gallo could have done likewise, had he written the same results three months earlier instead of filing a patent application.

How many conditions must one comply with in order to enjoy copyright?

Authorship *per se* does not necessarily provide copyright. The author of a crime has no right on his victim... How could a secretary claim copyright and royalties on the letters she wrote for her boss? Or an employee on estimates that he gives to his customers?... Etc... No further comment is needed for what is obvious.

One must meet five basic conditions!

- 1 - having actualized one's idea onto a physical medium: **the work**;
- 2 - the work must be original: **creation**;
- 3 - such a creation must be truly literary or artistic: **a Work of the Mind**;
- 4 - one must be able to formally authenticate the date of its creation: **anteriority**;
- 5 - one must be able to formally identify its creator as a physical (*natural*) person : **the author**.

Thus the Berne Convention and the Universal Copyright Convention stated: " *Every Work of the Mind is the Ownership of its Author*".

This is why:

- holding a monopolistic commercial title (*utility or design patent*) does not provide ownership;
- one must own a work of the mind leading to an invention or an original concept prior to holding the resulting monopolistic title...

As long as one cannot establish beyond a doubt ownership of a secret, no one can claim rights on a mere finding; in other words, without authorship, an invention belongs to no one. **In order to reinforce patent as a commercial title**: one should change it into an **innovation patent**. This seems logical, since it is a monopolistic title and not a property deed.