

Popular statements are often misleading to the general public; as propaganda, they are used by those who wish to impose an idea. Easily assimilated, such statements become unquestionable facts for the credulous mass, for which any demonstration is naturally useless.

Anteriority of a creation over invention is law

Michel Dubois

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

U.S.D. System International Editions Consortium
Universal Strategy Development System

www.sosinvention.comwww.usdclub.orgwww.usdsystem.com

The principles and 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**The unpublished ** Intellectual Passport CB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** **Non unpublished:** unlike the holder of a patent or other official monopolistic titles, the author legally owns his work by the mere fact that he created it...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.

I - 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 distrainable 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 monopolize 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.

II - The Intellectual Passport CB is insurable, notably because:

- It provides a clear title resulting from a true **property**; thus it is a personal asset that can be used in a court of law; furthermore, it unquestionably identifies the author of the concept and resulting invention... Its **legal validity** is unquestionable and recognised world-wide.
- Given its non-publication, risks of fraud are kept to a minimum.
- It seldom requires patents or **property** held by third parties.
- Its business forecast (ICBF) allows the author to commercialise his invention internationally after having assessed its market;

Further reasons for being insurable:

- Because the editor is an independent third party.
- Because co-authorship of the book allows for greater control of **illegal transfers**, thereby ensuring safer relations between employers and employees.
- Because **copyright** provides new strategies that are stronger, less time-consuming and less costly for prosecuting and defending oneself in criminal courts. Notably in cases of unfair competition and industrial espionage.
- Because numerous court cases where third parties successfully used their copyright against utility or design patents, prove copyright's efficiency,
- **Because jurisprudence in favour of an Intellectual Passport CB**(*upheld in the Court of Cassation, i.e. France's Supreme Court*)**proves that the non-publication of a work helps preserve secrets.**

III - Anteriority of the Invention's Description on the Actual Invention

1. Purpose of the USD-System E.I.C. (Editions International Consortium)

The exclusive role of a USD System E.I.C. representative is assist the inventor, who consults him, in successfully claiming the international copyright derived from the initial creation of his original concept (*industrial or service-oriented*). More specifically, from the description of his invention, not the resulting invention itself...

What is the difference between the actual **invention** and its **description**?

- The **invention**: Patent grants a commercial monopoly in the country(ies) where it is registered, but it does not provide a copyright* on the description (*texts and drawings*) of the invention... This (*among other reasons*) is why its titled holder must extend it quickly (*without any knowledge of unpublished patent applications and innovations ***), at extensive costs (*unforeseeable*) and enormous risks (*loss of secrecy*) in every country where the inventor wishes to commercialize and sell his invention.
- In order for the description(*texts and drawings*) of an invention to provide copyright: it must be intrinsic to a creative literary and/or artistic work. The resulting copyright and royalties automatically (*naturally and free of charge*) provide the creator with an international exclusive right to produce, reproduce and interpret all or part of the work for his entire life, and until 50 to 70 years after his death (*according to the laws of each Nation on the planet*).
- When the description of an invention or methodology is intrinsic to a creative literary or artistic work, copyright on the description remains unchanged.

2. The USD System E.I.C. solely uses the existing law

A lawyer from any country, who has been trained in copyright law, should be able to represent a client of the "*Intellectual Passport CB*" in court... Why?... Because the term "*Intellectual Passport CB*" merely represents a collection of books (*unpublished*), in which each client is the author of the pages dedicated to his autobiography (*literary description*) and drawings that represent his creative concept (*artistic description*)... Consequently, whether or not a lawyer, specialized in copyright law, is familiar with this new collection of books does not change his competence to defend it... In the case that all or part of the work is fraudulently copied for commercial (*or even industrial*) purposes, the client can take legal action, not for counterfeit, but for plagiarism of his work (*and possibly, but not necessarily, for unfaithful competition, and even for more serious reasons*).

* Secret envelopes deposited at one's place, letters sent to oneself by mail, laboratory note books and copyright registrations (*without first creating a true literary or artistic work*) do not provide intellectual property. Much like the holder of a laboratory note book, copyright registration and depositing an envelope at one's own place, merely prove that the depositor knows the content of the document. It cannot prove that he created the concept. As a result thereof, these well-known systems can only prove anteriority. They cannot prove property.

* *Innovation: a third party may already have commercialized the same invention, without patenting it. In such a case, the patent can be annulled in a Court of law for lack of novelty.

3. Copyright's Strength

How could a third party produce and sell a new product or innovative service, which is described as an intrinsic part of a literary and/or artistic work (*unpublished*) included in such a book as the Intellectual Passport CB (*assorted with an international consortium business forecast and a set of related contracts*), without plagiarizing (*voluntarily or involuntarily* *) all or part of the author's creation for commercial and/or industrial purposes?

That is neither new nor extraordinary!

4. Works of the Mind

Works of the Mind are classified among works of art derived from a creative process. An excellent copier of works of art (*a forger, for example*) is an artist who does not create. A work of art that does not result from a creative process is, therefore, not a Work of the Mind (*generator of copyright*) since it does not require creative intuition. Moreover, in order to provide its author with exclusive rights (*i.e. copyright and royalties*), such a work must have been created according to the techniques and rules of a given recognized art, in particular for the purpose of being understandable to the public, to whom it is aimed at. Mere scribbling or drawings on a paper do not constitute a work of art, let alone a Work of the Mind. *"...creative intuition... to integrate constructive intelligence and generating instinct in the living unity of the imagination achieves perfection through genius. The essence of knowledge and action preclude that the creation remain the simple actualization of an idea grasped in all of its content only needing to be concretized:*(Encyclopaedia Universalis (Britannica), vol. 5, page 67, ed. 1971).

5. Conclusions

The duty of USD System E.I.C. representatives consists in helping creators of original ideas (*industrializable or not*) to become authors of truly literary and/or artistic creative works, when such creators include the description of their original concept in an unpublished** book as part of the "Intellectual Passport CB" collection... Since the book remains unpublished, the author or his licensees can, at any time, elect to patent the invention at his or their expense. The author also has the option to improve his invention, unlike the holder of a patent (*or other similar monopolistic titles*). Indeed, the "Intellectual Passport CB" allows for as many modifications as desired for minor additional costs.

* To be an author (*from the Latin: auctor*) is to be the source of a creation; i.e. to be **the first**. On that sole account, anyone who, though unaware of the original work, subsequently actualizes it, cannot claim authorship of such a work nor any resulting right.

Comment: in order to enjoy its specific rights, the holder of a patent (*utility or design patent, industrial design, drawings and models, etc.*) must mandatorily publish his creation. On the contrary, even an unpublished literary/artistic work results automatically in copyright and royalties. Such a work is the property of its author, **by the mere fact that he created it.**

IV - 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 copy-right, 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.

V - "Expressing the idea" or "Expressing the work"? One must choose!

1. A frivolous statement: according to a fair number of jurists (*so-called experts in Intellectual Property*), the theme of a novel's story is not be covered by copyright, only the manner in which it is written. They inopportunately reduce the meaning, even the extent, of the terminology "**expression of an idea**" applied to the Right on ideas, without realizing the contradictions that it implies. When the work is original, is the manner in which the story is told not bound to the plot?

2. In reality: the fact that an author secretly submits an original story (e.g. *a scenario or the libretto of a new theme that never existed before*) to a third party, along with a confidentiality and non-disclosure covenant included in the work and signed by both parties (*i.e. author and third party*), does not allow the third party to steal the original theme of the story by changing the characters' names, its era, etc. Otherwise, confidentiality and non-disclosure covenants prepared by lawyers would be a hoax and there would be no scenario writer. One could steal scenarios without any risk of being caught and the name of the scenario's writer appearing in the credits of a film would solely be that of an impostor. Consequently, films as well as any kind of audio-visual presentation would not be covered by copyright. By merely enumerating such improbabilities, it becomes clear that, if they were right, **those who restrict** copyright to the way in which a story is told would promptly:

- put every film and audio-visual scenario writer out of work;
- deny every writer, including novelists, journalists, poets, play writers, graphic artists and cartoonists, painters, sculptors, photographers, composers, etc., whose work has been the subject of a film, a video, etc., the right to claim copyright, hence royalties. As long as copyright is in force, one cannot "*remake*" a film without the initial scenario writer's authorization;
- eliminate a major part of the clientele from lawyers who specialize in defending the rights of writers, artists and authors of software programs, whose works have been plagiarized.

3. It raises a question: who gains from saying that, in "the expression of an idea", the theme of a story is not covered by copyright, but only the way in which it is told? Interestingly, the scenario and the dialogue are sometimes written by two different people. Could there be confusion between "**the expression of an idea**" and "**the expression of a work**"? Who is trying to restrict copyright's strength?

4. The answer is obvious: patent agents, their lawyers and world's industrial giants take advantage of the fact that inventors and SMEs cannot afford to obtain and legally defend an international patent, and through the latter, all of the industrial predators can steal original ideas directly from the international catalogue of intellectual property (*provided by the Intellectual Property Offices and Institutes of every country*). They can, therefore, grab with impunity the inventors' and SMEs' inventions, as soon as (*or sometimes even before, one wonders how*) their title (*or drawings, models, etc.*), is mandatorily disclosed*and simultaneously exposed free of charge by every Office and Institute of Intellectual Property on the planet.

* **Mandatory disclosure:** Let us take the opportunity to remember that, according to the internal laws of Nations and the International Conventions on copyright, "mandatory disclosure" does not exist in the realm of literary or artistic works... Consequently, any of these works is the author's natural and unquestionable (*unassignable and inalienable*) property, even when it is kept completely secret... Patent agents find it very difficult to accept this fact, since non-disclosure of a work goes against the mandatory disclosure applied to patents (*or other industrial titles*)... They are two different laws that must not be confused! **By systematically disclosing the Intellectual Passport CB, one would methodically eliminate patent (and other titles).**

The non-publication of a Work forces the copier to systematically resort to various illegal strategies that do not exist with patents, namely:

- industrial and/or intellectual espionage, thereby allowing turncoats, etc. (*criminal acts*) to become acquainted with the description of industrializable inventions or original service-oriented concepts;
- vandalism on the author's work (*criminal act*), should the thief succeed in denaturing it by changing some of its parts (*features, words, etc.*).

Moreover, one cannot organize and implement such economic espionage systems without first knowing about the creations that are secretly kept in an unpublished Intellectual Passport CB. This benefits the author, all the more so since it hinders the speed of the predator's actions; a fact that can make him lose interest as this one is inevitably always in a hurry... This being said, when an artistic creation ~ a *plan, sketch, graphic work (any form of original drawings), sculpture, photograph, geographical map, etc.* ~ is an integral part of a literary work (*a libretto, a scenario, a novel, etc.*), it is automatically covered by copyright by the mere fact that it is intrinsic to the work; in other words, it cannot be dissociated from the literary work. This is what one calls, "**unity in art principle**". The same principle applies when a literary creation ~ a *libretto, scenario, novel, conference, software program, database, Internet site, instructions for end-users, etc.* ~ is an integral part of an artistic work... The idea cannot be dissociated from the work.

Thus, much like the characters and objects created by Walt Disney, any other two-dimensional drawings of original characters and/or objects that are included in literary and/or artistic works as part of albums that one cannot dissociate, such as Superman, Batman, Tintin (see *Professor Tournesol's shark-like submarine*), are covered by copyright; a third party cannot reproduce them in two or three dimensions without the author's or his heirs' and legatees' expressed authorization... Hence, an original story cannot be legally produced, reproduced or interpreted without prior authorization from the author of the texts and drawings that, "*together, as a unit*", constitute the "**expression of a work**", and, logically, of the "idea", **not the reverse**. The same applies to the reproduction and interpretation of pictorial works, such as the melting watches in Salvador Dali's "*The persistence of memory*", for example, etc...

Apart from the aforementioned, there is a jurisprudence, rendered by the Supreme Court of Canada* stating that the written user guide in a work covered by copyright forbids the commercialization of a resulting object (*in three dimensions*) by a third party without the expressed authorization from the author.

• Supreme Court of Canada: Paul Trudel vs. Clairol Inc. of Canada (1975) 2 SCR 236

VI - Copyright or Authors' Rights?

As written, the *US Copyright Act § 102 b*) gives a misleading notion to copyright.

US Copyright Act § 102 b) (US Code, Title 17) :*"In no case does copyright protection for an original work of authorship extend * to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work".*

* "extend" does not mean the loss of copyright for a work. Merely its limit

Confusion :to call "authors' rights" "copyright".

These two terms do not have the same literal meaning; nonetheless, according to International Copyright Conventions, they are supposed to express the same rights for a same physical person: **the author**. Indeed, without the **author**, the law governing copyright would not make sense... In a bilingual country like Canada, its citizens (*and other inhabitants*) are governed by the same Law, whether it is written in English or in French.

In French, "*droit d'auteur*" refers to the author as a physical person, while in English "copyright" makes no obvious reference to a person even if authors' rights are a part of copyright law. Notwithstanding the fact that the word "copyright" does not accurately define its full legal significance, it is a matter of common knowledge that wherever he lives (*and works*), an English-speaking composer, playwright, film writer, etc. enjoys the same authors' rights, both moral and patrimonial, than his francophone colleagues, for his entire life and 50 to 70 years after his death (e.g. *Walt Disney*), depending on the specific internal laws of Nations.

Article 64 of the Canada Copyright Act: "*Where copyright subsists in a design applied to a useful article or in an artistic work from which the design is derived and, by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere: (a) the article is reproduced in a quantity of more than fifty, or; (b) where the article is a plate, engraving or cast, the article is used for producing more than fifty useful articles; it shall not thereafter be an infringement of the copyright or the moral rights for anyone; (c) to reproduce the design of the article or a design not differing substantially from the design of the article by; (i) making the article, or; (ii) making a drawing or other reproduction in any material form of the article, or; (d) to do with an article, drawing or reproduction that is made as described in paragraph (c) anything that the owner of the copyright has the sole right to do with the design or artistic work in which the copyright subsists. "*

Comment: A mere glance at this text might indicate that reproducing drawings representing useful objects does not constitute copyright infringement. Nevertheless, one must remember that this article is valid if and solely if the drawings are reproduced: "*... by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere ... "* As for the fifty samples, they devolve on the operator (*i.e. the person who commercialises the samples*) and not on the author.

Article 64.1 of the Canada Copyright Act: " *The following acts do not constitute an infringement of the copyright or moral rights in a work: (a) applying to a useful article features that are dictated solely by a utilitarian function of the article; (b) by reference solely to a useful article, making a drawing or other reproduction in any material form of any features of the article that are dictated solely by a utilitarian function of the article etc...*"

Comment: This article only mentions utilitarian objects and utilitarian functions. In other words, article **64.1** allows reproduction if it is dictated **solely** by a utilitarian article. However, article **64** of the same law states that reproduction **without the prior consent of the title holder**, is illegal if it is dictated by an artistic drawing representing a utilitarian article.

The Berne Convention, art. 2 : "*It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.*"... **Indeed, what is the purpose of the word "... protected..." in this sentence?**... It would have been much simpler to write: "*It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be valid unless they have been fixed in some material form.*" **Laws L 111-1 to L 217-3** of the intellectual property code categorically confirm this point. Otherwise, the **Asterix Park** might as well cease its operations; likewise, Hergé's editor, **Casterman**, would have serious problems...

* * *

It is partly the reasons why the Legal texts of the Berne Copyright Convention (9 September, 1886) and of the Universal Copyright Convention (6 September, 1952) are under the sovereign control of the **World Intellectual Property Organization (WIPO)**, which sits in Geneva, under the UN's aegis.

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The Intellectual Passport C.B.
does not replace utility patent; even better, it precedes it.
The creative work included therein is anterior to the invention!

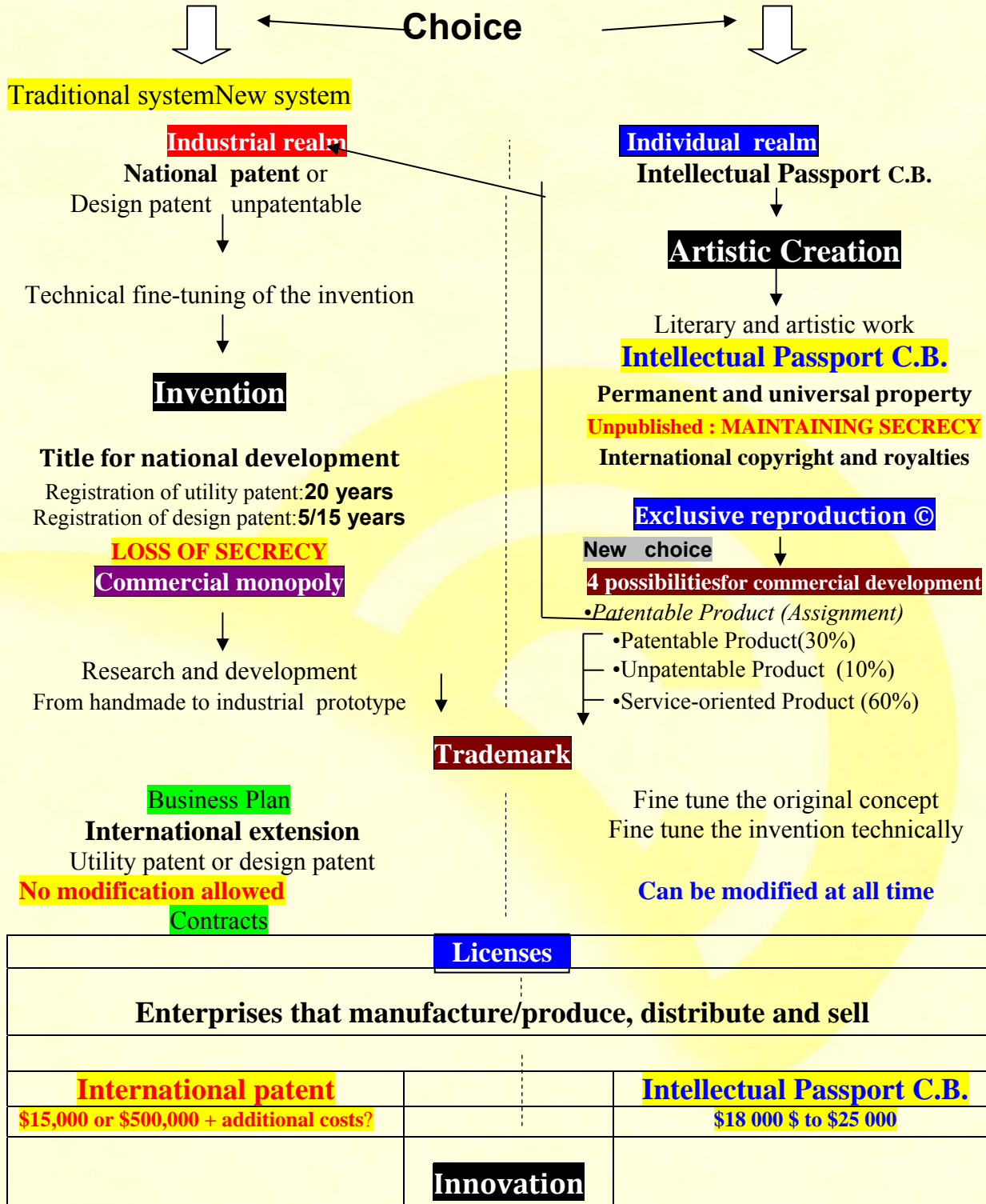
Sequential order: Creation ► Invention ► Innovation

* **Works of the Mind** are classified as original, and therefore creative, works of art. Moreover, in order to provide its author with the resulting exclusive right "**copyright**", such a work must truly be **literary or artistic**; this is why it must comply with the specific techniques and rules that govern a given art. It is the only way of making it comprehensible to interpreters or readers. Merely writing sentences or drawing shapes is therefore insufficient to establish an author's work as a work of art, let alone a **Work of the Mind**.

VII - Sequential order from idea to innovation

Realm of ideas -Intangible and incorporeal field - Common thoughts

First Creation: Putting an original idea into concrete form onto some physical medium



The sequential order described above: Idea ► Creation ► Invention ► Innovation

VIII - Conclusions

- 1 - If one associates the notion of "*Expression*" (*description*) to the notion of "*Idea*" (*a purely imaginary concept*), one obtains "**expression of an idea**", which means: **description of a purely imaginary concept**. The same thing occurs when we talk...

According to this formulation, the notion of "*Work*" does not exist, although without it, the idea could not have been described... Whereas the notion "*literary or artistic*" is neither included in this insufficient nomenclature "expression of an idea"; it would seem to some that to forget the word (*hence the notion of*) "work", without which the idea would not have been materialized, is enough to arbitrarily remove copyright on its property. That is to say, on the idea that is rooted in the text and/or drawing.

Yet, it is precisely because of this link that, for example, the original story contained in a scenario belongs to its author, as much as it is in the manner in which he described it.

- 2 - If one associates the notion of "*Expression*" (*description*) to the notion of "*Work*" (*literary or artistic production*), one obtains "**expression of the work**", which means: **literary or artistic description of an initially imaginary concept**.

In such a case, there is no more possible doubt on the dependence of the idea contained in the work, and the derived copyright logically applied, without any further explanation, as much on the originality of the theme of the story than on the originality of the manner in which it was described. These two types of originality being at the heart of the work, are intrinsically tied one to the other.

- 3 - What applies to the author of a creative literary or artistic work also applies to the author of an industrial or service-oriented original concept, once he includes his creations in an **Intellectual Passport CB**.

Why is it so?...

The reason is simple: Having hired the services of one of the licensed editors of the USD-System Editions International Consortium, the inventor becomes author of his work. In such a case, he enjoys the rights related to the "expression of the work", whether his concept is technical, technological, computer-related, industrial, etc... or simply commercial.

IX - Lawyer's opinions

We welcome jurist opinions, comments, questions or oppositions relative to any part of this present document; such a jurist may do so through a professional and explicit written, signed and dated communication, inclusive of all their arguments and views. To us, the written form is mandatory and *asine qua none condition*, since verbal opinions, comment or criticisms belongs to no one and will not contribute to any business advancement.

