

*"Invention is a primary initiative
of the human mind,
that which distinguishes man
from beast and allowed him
little by little to attain dominion
over the material world"...*

Henri Bergson

***“How to make Intellectual Property
available to the greatest number of people”***

Conference

held May 31, 2002 by the representative extraordinary of the *USD-System* editors
at the University of Toronto (*Canada*) as part of its annual scientific congress.
Series of conferences organized by the “Planetary Association for Clean Energy, Inc.”, Ottawa

Text by Michel Dubois translated into English by François Belleau

Summary

Prologue: Patent and copyright	page 5
1 – Industrialization and the inventor: A financial imbalance	page 7
2 – The principle of preponderant anteriority: Basic rule of Intellectual Property	page 8
3 – Index of recognized anteriorities:	page 9
4 – The principles underlying the preponderance of a Work of the Mind and the evidence required to establish the authorship of a work	page 11
5 – What founds the legal value of the <i>Intellectual Passport C.B.</i> as a means to own a work	page 12
6 – Presentating the <i>Intellectual Passport C.B.</i> Universal certificate of anteriority and instrument for seeking financial support and creating strategies	page 14
7 – Function of the <i>Intellectual Passport C.B.</i>	page 15
8 – Examples of how the <i>Intellectual Passport C.B.</i> can be used against copiers	page 16
Glossary	page 19

- *All the words with an asterisk are indexed in the Glossary at the end of this document, and are especially relevant to the present discussion.*

Prologue

Conceived at the end of the 18th century, **patent** is an undemocratic title that is totally unsuited for the inventor's social condition. Indeed, it provides the applicant with a **temporary** monopoly* of commercialization that is delivered by sovereignty of State. Such a privilege implies costs that the inventor cannot afford to pay, as well as the loss of secrecy of his technique and the disclosure of his commercial strategy to competitors (*i.e. passive and active technological vigil*).

Conceived at the end of the 18th century, **Copyright** is a democratic instrument that provides an author free of charge with the exclusive right* to produce and reproduce his Work of the Mind*. Such a right is valid for the author's entire lifetime plus fifty to seventy years after his death. It is granted free of charge for two basic reasons: on the one hand, it results from the talent required to create the author's work; on the other hand, it results from the universal, permanent and **unquestionable property** of such a work, which is valid even without disclosure (*i.e. maintaining secrecy*).

For more than two centuries, the use of patent (*or any other title of monopolistic commercialization*) has distorted the notion of **protection**. Entrenching themselves behind tradition, expert counsels falsely recommend patent as a means of protecting inventions. Such mental conditioning has had paradoxical effects. Indeed, even though one is well aware that the words "**protection**" and "**protect**" are misleading, both professionals and laymen readily apply such words in and out of context. It truly is a case of the blind leading the blind... To make matters worse, the **C.I.P.O.** ~ Canadian Intellectual Property Office ~ (*like institutes in other countries*) provides explanations that are clearly aimed at disinforming the reader. In its **Guide to Patents** (ISBN 0-662 84233-2), page 12, the **C.I.P.O.** comments on the actual meaning of the word protection. Let us examine this specific document:

"What does "protection" mean? Patent Infringement. Patent infringement would occur if someone made, used or sold your patented door lock without your permission in a country that has granted you patent, during the term of the patent. If you believe your patent has been infringed, you may sue for damages in the appropriate court. The defendant may argue that infringement did not occur, or may attack the validity of your patent. The court will determine who is right, basing its decision largely on the language of the claims. If what the defendant is doing is not within the wording of any of the claims of your patent, or if the patent is declared to be invalid for any reason, there is no infringement. " ...

So much for patent's *so-called Protection !!!* ... In reality, a definition of counterfeit as a legal recourse would have been simpler and more useful to the reader. One fails to comprehend how the notion of protection can be applied to such a recourse. Unless jeopardizing one's monopolistic rights is one of patent's specific forms of protection! One fact remains clear: *without money, there is no protection...* Doubtless, the lawmaker provided this nebulous explanation in an effort to confuse the reader. Thus everyone (*the patent agent as well as the public*) construes the words *protection* and *protect* according to a stereotyped definition that contradicts logic.

Extreme care is needed when dealing with problems concerning Intellectual Property. One should never lose sight of commercial consequences. **An invention that is ahead of its time inevitably challenges traditional values; strong interests are at stake, often concerning lobbies; this increases the danger of being attacked, and the idea of protection therefore becomes illusory...**

If, upon its creation (1791), patent had been clearly presented to the public as an instrument specifically intended for industrialists, and not as a means of protecting impecunious inventors (i.e. as a commercial title and not as a property deeds), chances are that, for the last two centuries, a higher sense of equity would have prevailed in business and society.

One can therefore better understand the reasons why, throughout this conference, we shall do our best to avoid the words protection and protect unless they are used in their literal sense (*i.e.: to shelter*)... Otherwise, these words will soon lead us to contradictory conclusions. For example, given the mandatory publication of patents, it is difficult to understand how can one protect (*i.e. shelter*) an invention by exposing it. The dictionary only serves to confirm this potential dilemma; the antonym of the verb *to protect* is: *to expose*... By dismissing these two amphibolies¹ from the present discussion, we shall surely notice that our vocabulary is rich enough to accurately express our thoughts.

* * *

¹ Amphibology, n.; pl. Amphibologies (-j[i^]z). (*amphibologia*, for *amphibolia*, fr. Gr. 'amfiboli`a. Gr. 'amfibolos ambiguous + lo gos speech: cf. F. *amphibologie*. See *Amphiboly*.) A phrase, discourse, or proposition, susceptible of two interpretations; and hence, of uncertain meaning. It differs from equivocation, which arises from the twofold sense of a single term..

1 – Industrialization and inventors: a financial imbalance

The advent of industrialization, more than two centuries ago, resulted in new legal procedures specifically adapted to the interests of the industrial world. Such procedures favored the commercialization of the invention at the expense of its author's initial creation. Through such legal provisions, invention was defined as the mere ***finding*** of a technical or technological methodology, and was denied any creative attribute. Given this predicament, the inventor never had the appropriate means, until the present, to prove intellectual property with regards to his creation. This also explains why the traditional business plan is specifically conceived as an ***industrial priority*** for the entrepreneur. As for the inventor, he needs a business forecast that suits his social condition. Such a document must allow him to attract industrialists who are interested in assuming the costs of commercialization through equitable contracts of license or assignment. A basic feature is that it ***reflects the interaction of any number of disciplines***. We shall come back to this subject in the introduction to the ***I.I. B.F.***, or International Interactive Business Forecast, which is included as part and parcel of the ***Intellectual Passport C.B.***.

The age-old confusion created by the inadequate use of patent has led to immeasurable losses in business opportunities. The international market of intellectual property is presently underdeveloped (*1 % of concepts, whether patentable or unpatentable, are patented internationally, namely 47,291 out of 4.730,000 concepts ~ 15 % patented nationally ~ according to a 1996 analysis by the World Intellectual Property Organization – W.I.P.O. - Geneva*). There is no doubt about the magnitude of the new market opened by the ***Intellectual Passport C.B.***: statistics gathered worldwide prove that it is ***one hundred*** times greater than the amount of patents registered each year internationally.

Experience has shown that patent in most cases does not serve the legitimate interests of the ***author*** of an invention. Moreover, the holder must extend such a title in every country where the invention can be commercialized. Contrarily to the exclusive ownership resulting in copyright, considerable financial means are required to extend one's monopoly internationally, let alone to defend it in courts of law.

Not only is the abusive use of temporary ***monopolistic titles**** detrimental to the ***exclusive property**** inherent in creation; by reducing access to Intellectual Property, keeping it at its bare minimum, it also increases the gap between rich and poor. Thus the present system of patent is less and less capable of fulfilling the actual potential of one of the noblest markets, if not the most vital for civilization, namely, ***the market for brain power***; mankind's raw material, an inexhaustible source that stimulates the creation of wealth and is essential to mankind's evolution... By making Intellectual Property accessible to each person, human creativity will at last be liberated from material restraints, thus enabling it to act as a stimulus to the constantly emerging innovations that ensure scientific, technical and technological progress, whether in the field of industry, services or art.

In short, instead of granting the inventor his due (*i.e. a title that unquestionably establishes the author of the invention, along with the associated rights*), patent (or other titles) provide the **presumed** author of an invention with a commercial monopoly, which only an industrialist with international means can afford to support. Conversely, copyright results from the recognition of the author as a creator (*original idea*), thereby establishing his unquestionable intellectual paternity. Copyright, which results sequentially from the universal, inalienable and permanent ownership of a literary and artistic work, is strictly concerned with the author's expression of his creative idea in such a work...

In order to use copyright in a legal, original and innovative way, let us first examine the law governing Intellectual Property.

2 – Anteriority: the principle underlying Intellectual Property

Much like the law of gravity and parental filiation, ***the international rules governing Intellectual Property are based on the principle of anteriority***; namely, the order in which things occur and develop: ***anteriority*** → ***actuality*** → ***posteriority***. This principle constitutes the very heart of intellectual property. For example, the inventor who wants to obtain a patent must first of all claim his anteriority. This principle traces the growth of an invention from its origin until it reaches the stage where it becomes a final product. **Metaphorically, it represents the genealogy of an invention (Δ).**

Based on the legal preponderance of anteriority as the primal cause of evolution and progress (*a principle followed by every jurisdiction² worldwide*), this sequential order ensures fair practice in the realm of authors. For example, it is illegal for a third party to copy, without the author's consent, all or part of the latter's work for commercial purposes. As a result of such an order, the American notion of copyright © represents one of the most efficient and dissuasive means of prosecuting fraudulent copying (*plagiarism, unfair competition or trickery as a civil and commercial tort*).

It is by following **the sequential order of Nature (Δ)** that mankind has imposed itself as master of the material world:

1: Create (*bringing into existence*) **2: Invent** (*finding a method*) **3: Innovate** (*introducing into the market*)

Namely: **1 : Creation*** → **2 : Invention*** → **3 : Innovation***

In every country governed by Intellectual Property law, any proof of anteriority can be used to challenge a patent (*or any other title of monopolistic commercialization*) sub-

² By restricting this notion to the realm of invention (*i.e. a finding*), in other words, by wilfully ignoring the natural priority of creation over invention, jurisdictions worldwide have denied the inventor his creative virtues, without which he would never have conceived anything... Their mistake is to have arbitrarily restricted copyright and royalties to artists and titles of monopolistic commercialization to inventors. This erroneous choice results from incoherence, since, by definition, a commercial title is only suitable to a developer (*i.e. not the author*).

sequently registered by a third party. This confirmed by Article 34.1 (1) of the Canadian Patent Act:

*"Any person may file with the Commissioner prior art, consisting of patents, applications for patents open for public inspection and **printed publications**, that the person believes has a bearing on the patentability of any claim in an application for a patent".*

3 – Index of recognized anteriorities

There are three kinds of recognized anteriorities: A) those that are disclosed in the index of Intellectual Property; B) those those that are not indexed but are valid since they are commercialized or are inherent in commercial rights that have not yet been disclosed; and C) those that are related to copyright.

A – Indexed anteriorities: One can find such anteriorities by making a preliminary search in the catalogue of Intellectual Property institutes or offices. Such a search takes little time (*a few weeks*) and is affordable (*approximately 1 000 dollars*)... However, patents are disclosed only **eighteen months** after the date of application. Consequently, this preliminary search cannot provide legal knowledge of anteriorities with regards to registrations made during the **eighteen months** prior to the search for anteriorities (*these are the most recent, hence the most important anteriorities*).

B – Anteriorities that are not indexed: There are two categories.

- First category: This category includes applications for titles of monopolistic commercialization (*patent, design or other*) registered in Intellectual Property institutes or offices during the months prior to the search for anteriorities. As long as they are not published, there is no legal means of finding such anteriorities.
- Second category: This is the largest category (*90 % of commercializable ideas and 60 % of patentable inventions*); it includes every type of innovation that are commercialized worldwide, ranging from the local workshop or boutique to certain multinationals: Bic and Zodiac are perfect examples of the latter kind of enterprises. Needless to say, this category comprises many inventions: those that are commercialized under the seal of secrecy (*e.g. for national defense*), original techniques, service-oriented concepts or famous products that enjoy total confidentiality such as Michelin tires or Coca-cola.

Comment: Anteriorities that are not indexed and those that are kept under the seal of secrecy cannot be searched legally. In order to find them, one must invest in a **search for novelty**. This search is lengthy (*several months*); it can also be very expensive (*between fifty and one hundred thousand dollars*); it can also involve acts of unfair competition or

industrial espionage (*this can prove a hazardous business*)... In spite of the high costs and risks involved, one can never take for granted the result of such an investigation: there is always a possibility that, somewhere in the world, a third party will use a hitherto unknown anteriority to challenge the applicant's invention!

C – Anteriorities related to copyright: There are three categories.

- First category: Creative literary or artistic works that are registered at a recognized organization (*copyright number ©, ISBN, SGDL, SACEM, etc...*).
- Second category: Unregistered literary or artistic works that were created by an author and are therefore his property (*because the author put them in concrete form onto a physical medium*).
- Third category: Unpublished literary or artistic works that are registered under the © of copyright; in order to maintain secrecy, such works are not sent to a National Library; the **USD-System** method is based on such a strategy.

Comment: Whether they are published or unpublished, Works of the Mind* are the property of their author... The latter enjoys for his entire lifetime plus 50 to 70 years after his death the exclusive right to produce, reproduce © and interpret his work. Among the most famous authors: Walt Disney, Hergé, even Pliny the Elder³. Lesser known authors include the professors of the University of Colorado who won a case in 1999... They used copyright to successfully challenge a patent on their invention that a multinational from the same State had subsequently registered. ***One can probably find similar rulings on every continent.***

* * *

Creating a Work of the Mind thereby establishing one's authorship of such a work is the unquestionable and universal proof of anteriority and property required to challenge third parties

* * *

³ A literary text by Pliny the Elder (*50 A.D.*) was used to annul a twentieth century patent in a court of law (*Encyclopaedia Universalis, vol. 3, page 597, 1971 edition*).

4 – The principles underlying the preponderant anteriority of a Work of the Mind⁴ and the evidence required to establish the authorship of a work

Given the excessive costs and huge risks inherent in patent application (*or other titles*), secrecy and copyright certainly seem far more affordable and attractive options for inventors, researchers and small or medium-sized enterprises.

- The benefits of secrecy are limited to the risk of disclosing one's concept or product; without proof of intellectual property (*i.e. a seizable personal property*), there is no efficient legal recourse against such disclosure.
- The benefits of copyright are exclusively granted to creators of true literary and/or artistic works; in order to be indexed as Works of the Mind, such works must result from original creative acts.

Comment: There are racketeers who sell copyright registration to uninformed inventors; such copyright does not result from the creation of a literary or artistic work. These racketeers convince their victims that they enjoy "*worldwide protection*". Such illegal services are found on Internet and sell for approximately fifty dollars (*a very low price compensated by a vast clientele*). Various associations provide similar illegal services for a cost ranging from a few hundred to a few thousand dollars (*i.e. the life savings of an average inventor!*). The inventor would reach the same result by mailing to his own address a registered letter in which he describes the invention or concept that he allegedly created (*i.e. his intellectual property*). In reality, such a tactic can only prove that, on the date when the registered letter was mailed, the sender of the letter was aware of the invention or concept (*much like the inventor who registers a presumed copyright*). It does not prove that the sender is the **true author** of the invention or concept.

As we have noticed, merely proving that one is aware of an anteriority on a given date is not sufficient to claim copyright. In order to prove exclusive authorship of an original concept, one must describe it in a Work of the Mind. This proof of authorship has always been the **only universal and legal means** of establishing one's true ownership of a creation, hence of the resulting product or concept. This simply is the only form of unquestionable property! According to the internal laws of Nations and article 17 of the Universal Declaration of Human Rights, no one can be arbitrarily denied such property.

⁴ Works of the Mind are indexed as works of art that result from a creative act. A work of art that does not result from a creative act is not a Work of the Mind since it does not require creative intuition. In other words, an individual who excels at making copies of works of art (*for fraudulent purpose, for example*) is an artist who does not create. Furthermore, in order to enjoy copyright and royalties, the author must also create his work according to the techniques and rules that govern a recognized art. Mere scribbling or scrawls cannot establish authorship of a work of art, let alone of a Work of the Mind.

Only a **true** literary or artistic Work of the Mind provides its author with an unquestionable and inalienable property and its resulting copyright. This is best illustrated by the following sequence: **an original idea** → **Work of the Mind** → **inalienable property** → **copyright and royalties**. The only payments required to strengthen the author's rights are optional: administrative fees for the registration of a Work of the Mind in order to provide formal and unquestionable proof of its existence at a certified date. **Such fees do not exceed a few dozens of dollars.**

Conclusion : A Work of the Mind provides its author with an **inalienable, hence permanent and universal property**. Copyright grants exclusive rights that are expressly limited to the production, reproduction © and interpretation of the work. This means that **in the industrial world**, no one, without the author's consent, has the right to register a title of monopolistic commercialization (*patent or other*) or to commercialize the description of the original concept included in the author's work. Such acts constitute plagiarism of the author's property and/or counterfeit of his copyright.

5 – What founds the legal value of using the *Intellectual Passport C.B.* in order to own a work

The "Intellectual Passport C.B." establishes the author of a work (the owner) and also allows for secrecy when remaining unpublished. Thanks to the **ownership** of his work, the true author can, unlike the unidentified author who holds a secret, transact his commercial rights to third parties by signing confidential or non-confidential contracts of license or assignment. If such contracts are confidential, third parties to the transfer of secret cannot obtain the formula (*recipe or process*) without reproducing the original by illegal means, including criminal acts, unfair competition, industrial espionage, etc. **Such criminal offenses inevitably leave a trail leading to the wrongdoer who can then more easily be prosecuted.**

Even in today's corporate world, when copyrighted material is involved, companies cannot freely distribute among their employees, subcontractors, sales representatives or customers, documents such as instruction manuals or software without paying the due price to the author in accordance with the number of persons using it. Further proof of the strength of copyright and of printed documents in challenging the validity of patent follows.

Likewise, **one cannot create a mould or make a given part without plagiarizing the designs which the author** has included in the *Intellectual Passport C.B.*.... Similarly, **how can one set up a technical or commercial system or disclose directions** for use that are included in an *Intellectual Passport C.B.* **without plagiarizing** the author's texts? Moreover, if **secrets** are defined in an *Intellectual Passport C.B.*, how could one acquire and thereafter copy them without the risk of being caught?

By using the *Intellectual Passport C.B.*, the author (*or group of authors*) **unquestionably** becomes the **owner of the secrets**; in other words, he enjoys a "*personal property*" both tangible and seizable (*see the Tri-TEX case*) which can clearly be attributed to his efforts. Unlike the definitive ownership of a Work of the Mind, the holder of a title such as a patent holds a temporary commercial monopoly granted by sovereignty of State. Much like a license, this monopoly is granted under strict conditions: the holder must pay annual validation fees throughout the entire duration of the title. He must also promptly and efficiently extend and commercialize the title.

If, three years after delivery, the title holder still fails to fulfill his commercial obligations, a third party (whether or not he copied the invention) can obtain ex officio from a court of law a license to commercialize the title. One of patent's main limitations, this point surprisingly is eluded by experts on intellectual property. *Such a procedure is in accordance with the law governing abuse of monopolistic titles (patent, design or others).* *Ironically, such a law treats monopoly as a commercial matter that depends on the holder's financial means, and not as a legitimate right to commercialize one's original product. All of which proves that patent is a commercial title and not a property. This also explains why it is granted for a limited period of time.* As we all know, temporary property is a misnomer: one had better call it a license or a lease.

In contrast with patent law, the Author of a Work of the Mind enjoys an inalienable property. Consequently, he does not have to pay annual validation fees to maintain his authorship. Likewise, inaction on the author's part does not allow a third party to obtain ex officio a license to commercialize and/or produce the work. *Such a property is granted without any obligation, since it results from the author's creative act. It depends neither on the grant of a monopoly or on mandatory disclosure.* In order to successfully challenge such a claim for property, a third party must file in court a Work of the Mind that is identical to the author's (*including the same date*). This is an unlikely event, to say the least !

Consequently, in order to copy, without his consent, all or part of the author's Work of the Mind for commercial purposes, one must commit a **quadruple misdeed**. The most obvious one is theft of the author's property. However, in order to perpetrate such an act, one has to violate private property... Indeed, there can be neither *violation nor theft* unless one appropriates an unquestionable property, *which no one can arbitrarily be denied* according to common law, the internal laws of most Nations and the Universal Declaration of Human Rights. To these two misdeeds, one must add a third one, namely, *that of imposture*, since plagiarism implies *deceitful intent* to pass oneself off as the author. The fourth misdeed, namely *unfair competition*, is inherent in the perpetration of the first three misdeeds.

The *Intellectual Passport C.B.* is a product that allows each specialized enterprise participating in the various phases of the commercial development of a product to work in its own field of expertise. Such phases range from the origin (*i.e. creation*) of the product or service to its ultimate use by society. This implies the following sequential order: **conception – production – commerce**. The *Intellectual Passport C.B.* was therefore conceived according to this sociological process which reflects the sequential order in which the complementary elements of commercial activity occur: **creation** (*a new concept which never existed prior to being put into concrete form onto a physical medium*); **invention** (*a methodology, resulting from the concept, which already existed in the absolute, but had previously never been found*); **innovation** (*the final product or service, introduced into the market place, which resulted from the industrial and commercial development of the invention*).

In conclusion, one only praise the benefits of a commercial system based on the following sequential order: **Creation** (*Intellectual Passport C.B.*)... → **Invention** (*with or without a patent*)... → **Innovation** (*through contracts of license or assignment*)... Once restored, this natural sequence allows the author to continue creating, the industrialist to continue producing and the innovator to continue marketing, without any unnecessary interference and without internal conflict... Each one of them can therefore earn a living from his own trade. In such a system, nothing can prevent the inventor from taking his rightful place, namely that of **author**. This is logically and morally where he belongs.

6 – Presenting the *Intellectual Passport C.B.*

The *Intellectual Passport C.B.*, worldwide property that costs approximately the same as a mere national patent, is made up of three parts:

1 – The historical account of the author, the description of the author's invention and the legal means to defend his rights **2** – The business forecast for commercialization over a three year period **3** – The sample contracts suited to the commercial strategy included in the forecast.

- **Part one:** describes and expresses in a historical account how the author (*i.e. the inventor*) was inspired and thus imagined and conceived the virtual form of his creative idea. Juridical, commercial and philosophical texts are added to this account. True autobiography of the author, this historical account follows the chronological sequence of events, as well as the specific name and involvement of each individual who witnessed the author's adventure. This autobiography therefore represents a true certificate of universal anteriority for the inventor, who can thus concretely validate his prior personal possession and use it to challenge third parties in court. This section concludes with a technical and functional description of the invention.

- **Part two:** explains the commercial strategy chosen to launch the product. A synoptic chart plus several pages of marketing analysis provide the gross results during a period of three years. Among other things, this business case allows one to assess the collective and

individual interests of each party participating in the innovation's strategy (*research – development – manufacturing – distribution – financing – sales, etc...*) as well as the business volume, gross margins and royalties which, a priori, are difficult to calculate. A traditional business plan cannot include ***the numerous disciplines that are involved in a commercial strategy***. The inventor who purchases the ***Intellectual Passport C.B.*** is under no obligation to follow the business case when commercializing his product or concept. Nevertheless, this tool shows investors and financiers that the inventor has examined the business situation seriously. (*see the chapter on distribution of rights, paragraph C pages 174 to 175, the book "Passport for prosperity!"*).

- **Part three:** includes personalized international sample contracts which support the overall commercial strategy that the inventor chose with his **consultant** while discussing the business case for part two of the ***Intellectual Passport C.B.***. Much like the business case, when these sample contracts are delivered to the client, the latter is under no obligation to use them. However, they are specifically conceived to contractually assign or license the author's rights (*i.e. distribution of rights*) to manufacturers, industrialists, producers of all kinds, distributors, financiers or investors of all categories, who are interested in commercializing the product.

7 – The purpose of the *Intellectual Passport C.B.*

The UNPUBLISHED *Intellectual Passport C.B.* was conceived in order:

- 1) **To provide** (*within a short delay and at an affordable cost*) a **universal certificate of anteriority** that establishes the inventor as the author of the invention or concept and provides him with the worldwide property that he needs.
- 2) **To add** (*within a short delay and at an affordable cost*) **commercial and strategic value to the Intellectual Property of enterprises and independent inventors**, as well as to authors of unpatentable ideas, services, concepts of all kinds and others...
- 3) **To evaluate** (*within a short delay and at an affordable cost*) **the business potential** of the strategy that results from the commercialization of the invention or concept and the need for finding investors.
- 4) **To organize** (*within a short delay and at an affordable cost*) **an effective commercial strategy** that is suitable to the launching of the product or concept and to its subsequent technical development and commercialization; such a strategy takes into account the financial means required to commercialize the product or concept, while maintaining the Author's secrecy as long as possible prior to taking the market by surprise.
- 5) **To establish** (*within a short delay and at an affordable cost*) **a new kind of contractual bonds** based on joint liability that leads to an excellent relationship between the author of an invention or concept, the holders of commercial rights and the investors. **Such relationship provides greater security**. Indeed, by co-signing a literary and artistic work, the directors of an enterprise/institute and its researchers/engineers can prevent former employees from committing acts of industrial and commercial espionage.

The PUBLISHED *Intellectual Passport C.B.* was conceived in order:

- 1) To create** (*within a short delay and at an affordable cost*) a new kind of situation that allows the author whose original concept or invention was copied, **to establish his rights** and thus successfully claim compensation.
- 2) To prevent** (*within a short delay and at an affordable cost*) **illegal trade by copiers of all kinds worldwide.**
- 3) To promote** (*within a short delay and at an affordable cost*) **the commercialization of the author's concept** (*and its resulting service*) **or invention** (*and its resulting product*) ~ i.e. **"the innovation"** ~ through the news and other media-related coverage such as literary programs, the launching of books, etc.

8 - Concrete and hypothetical examples of how the *Intellectual Passport C.B.* can be used against copiers in order to settle conflicts

A - Concrete example: We shall conclude this chapter by demonstrating the effectiveness of this new product. The inventor of a computer program⁵ that has a worldwide commercial application became the author of a literary and artistic work (*including the business forecasts and sample contracts*). This work was produced by the ***USD-System*** editors as part of the series ***Intellectual Passport C.B.***. It is significant to note that the work: **1)** was created in four original copies with the date of printing; **2)** remained unpublished, thereby allowing the author to have his invention patented by a third party; **3)** was registered at the Intellectual Property Office of the residence of the author with the date of registration and copyright number.

Result: One month after his ***Intellectual Passport C.B.*** had been delivered, the author transferred his commercial rights to an industrialist for a large amount of money. Afterward, the industrialist hired a specialist who registered a patent and extended it internationally. Needless to say, given the potential market of his product, the author did not have the financial means of registering and maintaining an international patent.

B - Other examples of how the *Intellectual Passport C.B.* is used: Since this new product is also necessary ~ even essential ~ for unpatentable inventions, the market of Intellectual Property that it opens includes the conceptual designer of a new service as well as a craftsman's method, the creator of formulas of all kinds, (*e.g. for advertizing*), etc... Examples are legion. A shopkeeper who, unlike a franchisor, cannot afford to extend the rights to commercialize his original working and/or selling method, can, for a few thousand dollars, purchase access to the universal, permanent and inalienable property provided by the ***Intellectual Passport C.B.***.

⁵ The inventor who created this software program will confirm this fact.

As one can easily understand from a legal point of view: the *Intellectual Passport C.B.* is a literary and artistic **medium** which expresses an original concept. In addition, as with when performing an administrative act, the author of this work personally undertakes to include a description of his invention. As a medium, the validity of the *Intellectual Passport C.B.* cannot be challenged. However, given their professional code of ethics, the *USD-System* editors must provide the author with the appropriate guarantees and services (e.g. *maintaining secrecy, joint liability with the author whenever their collective agreement is concerned, respecting law and order*). Once the *USD-System* editors make this new product available to the legal profession, as well as to inventors, researchers and conceptual designer of all kinds, it will certainly become the favorite tool of creators of enterprises (*small, medium and large-sized*). Thus the *Intellectual Passport C.B.* will guarantee the originality of the ideas of such creators, as soon as they set up their business or their service. It will also prevent **industrial and commercial espionage** as well **acts of business intelligence and unfair competition by former employees** (see the chapter concerning the use of the *Intellectual Passport C.B.* against industrial espionage in the book "*Passport for prosperity!*"). This applies to scientific, commercial (*franchise*), technical or technological concepts, whether they concern the industry, services or art.

C - For the settlement of conflicts: The lawyer knows that each of his clients has unquestionable rights related to his respective competence. On the one hand, the inventor is free from the costs of international patent (*or other monopolistic titles*), and, on the other hand, the investor has the financial means to defend a monopolistic title internationally. By using the distribution of rights strategy (*Exposé paragraph C pages 174 and 175 of the book "Passport for prosperity!"*), the inventor will have the financial partners required to successfully defend his rights. Thus the *Intellectual Passport C.B.* provides greater security and efficiency, hence harmony.

Thanks to its strategy, which maintains secrecy and uses copyright (*i.e. maintaining the secrecy of an original idea in an unpublished seizable personal property*), this **original product** allows greater access to Intellectual Property. Even though, as a rule, this literary work remains unpublished, the possibility of publishing it provides strategies that are not available under patent law. For example, the author might use its publication as part of an advertizing campaign in order to prevent a third party from commercializing the concept or invention. Such a tactic is valid even in cases when the third party copied or stole the concept or invention prior to the creation of the *Intellectual Passport C.B.*. . . . This is one of the **retroactive virtues** of this innovative product. At this point of the conference, one begins to realize the numerous benefits of editing literary works rather than registering industrial designs or patents.

Until the present, two inventors ~ a Frenchman and a Californian ~ have used this original strategy. After producing at a notary's office his unpublished *Intellectual Passport C.B.* (*in which he included a description of his invention*), the Frenchman obtained an out-of-court settlement that prevented a copier from commercializing his original product. As for the Californian, a copier had taken advantage of her hospitality in

order to steal her service-oriented concept and launch it for himself on the market. Right from the outset, she stopped the copier's commercial activity by merely informing him that she would soon publish her *Intellectual Passport C.B.*, thereby disclosing his wrongdoings. Thus, upon seeing a preliminary copy of the inventor's *Intellectual Passport C.B.*, and without even reading its content, the copier almost immediately ceased his illegal activities. Thanks to this efficient strategy, the case was solved without any scandal; furthermore, it also led to a new *Intellectual Passport C.B.* written in English for a Berlin-based inventor. As a result of this *Intellectual Passport C.B.*, a national license might soon be bought for the United States.

Comment: In the first case, having seen the product on the market, the copier was not aware that the inventor had already included his concept in an unpublished *Intellectual Passport C.B.*. Unable to find any anteriority in the Catalogue of Intellectual Property, he promptly registered his designs at an institute, in the hope of preceding the inventor. In the second case, the service-oriented concept could not satisfy the criteria of patent or of any other monopolistic title.

Fortunately for the inventor, this formula provides a prompt and inexpensive solution... Unfortunately for the unwavering supporters of jurisprudence, this formula eliminates lengthy and expensive procedures ** :

Efficiency is the inventor's boon.

Discretion is the copier's ultimate chance to survive.

* * *

**** Nota bene:** When a patent is delivered prior to its date of publication, its validity can still be used to challenge third parties. Likewise, prior to its delivery, the anteriorities included in the patent application can also be used to challenge third parties. This proves that publication validates neither the commercial title nor the originality of the invention. Likewise, with regards to copyright, it is not the publication of a book that validates the author's ownership of his work.

There is a basic difference between titles of monopolistic commercialization and the ownership of a work: they serve opposite functions. Patent is mandatorily published, since its main function is to disclose new technologies in the Catalogue of Intellectual Property. As applied to the *Intellectual Passport C.B.*, copyright first and foremost maintains the author's secrecy. Once his invention or concept is commercialized, it also allows the author to earn royalties.

******* Should the *Intellectual Passport C.B.* lead to a trial, please refer to the case won by the professors of the University of Colorado.

Glossary⁶

Anteriority: *n.* (from Latin *anterior*) The state of being anterior or preceding in time or in situation; preceding in time (*syn. priority, antecedence, antecedency, precedence. ant. posteriority*) (see the chapter on the Fabulous searches for anteriorities in the book "Passport for prosperity!", pages 131 to 137). **NOA:** Much like the law of gravitation, **the rules of Intellectual Property are based on the principle of anteriority**; namely the order in which things occur and evolve. In such a perspective, intuition precedes **creation** (*birth of a Work of the Mind*) which leads to **invention** (*discovery of a previously unknown method or product*), which in turn leads to **innovation** (*commercializing the innovative product that results from the invention*)... This principle of sequential organization exists notably in the business world: **conceptual design – production – commerce**, as well as in family traditions: **procreation – education - evolution**... (*ancestors, parents, children*)...etc... Using such a sequential order: **anteriority** → **actuality** → **posteriority**, based on **the preponderance of the principle of anteriority** (*included in legal systems worldwide*), the international consortium of editors **USD-System** publishes various documents that provide readers with accurate answers, regardless of his/her field of expertise.

Art : *n.* (from Latin "*ars, artis*"): A set of regulated means or procedures serving a given purpose... **NOA :** There has been a tendency ~ within the last few centuries ~ to place the so-called noble arts: literature, "*fine arts*", music... on a pedestal, at the expense of the so-called "**utilitarian**" arts, such as *manual and applied arts, arts and crafts and graphic arts*. Likewise, the art of producing a simple easy-chair involves numerous creative capabilities, ranging from the functional i.e. engineering, to the esthetic. Thus one must always *follow rules of art*, even when one performs a task which seems strictly *technical and utilitarian*. Indeed, without creativity, there would be no Work of the Mind, and without the mastery of a specific artistic technique, artistic expression would not exist. Doubtless, writing and drawing skills as well as a sense of value in a specific and mastered technical activity make up an organized set of components. Such a set of components in turn allows the author to activate the regulated procedures required to produce a useful work (*i.e. fulfilling a need*).

Assign: *v.* (1377, from Latin *cedere* which means *to leave*) **1° Jur.** To transfer or pass over (*property or right*) to another whether for the benefit of the assignee or of the assignor's creditors or in furtherance of some trust e.g. the general practice by inventors of assigning commercial or patent rights. (*see transfer*).

Assignment: *n.* (13th century, from Latin *cessio, cedere*) **3° Jur.** A present transfer of property or rights. The transfer to another of one's legal interest or right.

⁶ Most of the definitions included in this glossary were taken from the Webster unabridged dictionary, 1968.

Author: *n.* (12th century, from Latin *auctor* “he who incesases, founds”) ~ **See cause,** *To be the author of one’s misfortune. See Artisan.* *The author of a system, of a discovery.* ~ **Jur.** (*Contrary of trustee*) Who holds a right, an obligation ~ **2°** The originator of a literary, scientific or artistic work. *The author of a book. The author of work on geography, of a painting, of an opera. An unknown, anonymous author.* ~ **See writer, letters, man, woman of letters.** *This author has written many works. “Women authors” (Rousseau) T.S. Eliot is a famous author. An author’s literary property:* the author’s exclusive ownership of his work. **See Copyright, Rights of literary property:** exclusive commercial right that belongs to the author of a work. **NOA:** Anyone can be the author of anything, even a crime... However, in order to benefit from copyright, the author must create something in a recognized artistic discipline and master the rules and techniques that govern the art in which he expresses himself... For example, even though he is the author of his work, the expert who writes the estimate of a price for a client cannot claim copyright ~ or, for that matter, royalties ~ since the rules and techniques required to fulfill his task are related to his own professional activity but do not lead to the creation of a Work of the Mind in a recognized art... Otherwise, an employee who writes estimates, or even the latter’s boss, could use copyright in order to block the activity of an entire enterprise! Carrying this reasoning to its limits, a murderer might claim royalties on every newspaper clipping that mentions his crime... Let us be serious: copyright results naturally from the ownership of a Work of the Mind. Without such ownership, there is no copyright.

Business savvy: *n.* In the present work, this expression can legally be defined as follows: the knowledge, experience and technique acquired by an individual or a company, and which one can provide either for a fee or free of charge to other individuals or enterprises. **NOA:** Having redefined Know-how and thus restored it to its rightful place (*i.e. the first sequentially*), one can define the expression **business savvy** as including the following competences: artisanal and industrial technique as well as marketing, selling, buying and trade in general. Techno-commercial in nature, this basic and multifaceted function should logically rank fourth among the sequential formulas: **Know-how** → **How-to-make skill** → **Information** → **Business savvy**, namely, at the meeting place for salesmen and customers. This seems a logical conclusion, since, as citizens, we are all somehow consumers, regardless of our specific trade or vocation. “*The expression business savvy refers in general to information held by an individual or enterprise and that extends beyond patented technique. Such information should therefore be kept secret.*” (*transl. from the Industrial Property Guide, published May 1988 by the national company of patent counsels of France. The French word is “savoir-faire”*).

CIPO: Canadian Intellectual Property Office.

Claims: **NOA** *When registering a patent application:* claims make up one of the essential parts of the subsequent validation of the title. They determine the extent to which a title is valid, as well as the possible extent of the rights that the applicant can legally claim. Given their crucial role, claims must be written with painstaking care. The agent who writes these claims must also be familiar with the criteria used by the courts when validating patents. (*transl. from corrected version of “protection through validity”, from the Industrial Property Guide book, published May 1988 by the national company of patent counsels of France*).

Commercial sign: It usually is an acronym or logo by which one distinguishes the products or services of an individual, an enterprise or organization from other products or services. Signs often imply the notion of a promotion or distribution network (*e.g. franchises or licenses*).

Commercialization : Introducing a commercializable object into the market.

Competition: *n.* (1392, *Latin competition*). The act of seeking or endeavoring to gain, what another is endeavoring to gain at the same time; common strife for the same objects; strife for superiority; emulous contest; rivalry; as ... where two or more persons are engaged in the same business and each is seeking patronage; *Where competition does not act at all there is complete monopoly.* ~ *A.T. Hardley.* *Free competition:* system that allows everyone to produce and sell what he wants, as he wants. **See Fraud.** *See Unfair competition, Fraud.*

Conceive: *v.* (1130, *OF: conzoivre, conceive, conceveir, F. concevoir, from Latin concipere to take, to conceive; con + capere to seize or take see {Capable and cf. conception}*). ... **II** ... ~ 2° To form in the mind; to plan; to devise; to generate; to originate; as to conceive a purpose, a plan, hope; *It was among the ruins of the Capitol that I first conceived the idea of a work which has amused and exercised twenty years of my life.* - *Gibbon.* Have the idea for; (*syn: conceptualize, ideate*).

Concept : *n.* (1404, *du Latin conceptus, ~ cf. neut. Conceptum fetus ~ past participle of concipere "to conceive" French concept*). Something conceived in the mind: thought, idea, notion, as in *Philo.* An abstract general conception, a notion, a universal; *the words conception, concept, notion should be limited to the thought of what cannot be represented in the imagination; as the thought suggested by a general term – Sir W. Hamilton.* The resultant of a generalizing mental operation; a generic mental image abstracted from percepts; *also* a directly intuited object of thought; an abstract or general idea inferred or derived from specific instances (*syn. conception, construct; ant. misconception*). Conceptual: or of relating to concepts. **See conception, abstract, generalization.**

Conception : *n.* (1190, *from Latin conceptio ; concipere. V. Conceive*) ... (1315). *Dict. 5°* The image, idea, or notion of any action or thing which is formed in the mind; a concept; a notion; a universal; the product of a rational belief or judgment (*see concept*); the capacity, function or process of forming ideas or abstractions or of grasping the meaning of symbols representing such ideas or abstractions; *Conception consists in a conscious act of the understanding, bringing any given object or impression into the same class with any number of other objects or impressions, by means of some character or characters common to them all.* – *S.T. Coleridge.* ... The creation of something in the mind {*syn: invention, innovation, excogitation design*}. **See idea.** A product of abstract or reflective thinking.

Conceptual designer: *n.* Person who finds new ideas.

Conceptualize: *see conceive, {cf. ideate}.*

Contestation: As far as Intellectual Property is concerned, a request made by an individual or legal entity before an official organization, for the dismissal or revocation of a title of commercial monopoly (*patent, industrial design or trademark*). The conclusions sought by the petitioner depend on whether such a procedure occurs before or after the registration or delivery of the title. Such a contestation must be made within a given delay. (*transl. from Industrial Property Guide book, published May 1988 by the national company of patent counsels of France*).

Contract: *n.* (1361, from Latin *contractus*) ~ A legally binding agreement involving two or more people or businesses (*called parties*) that sets forth what the parties will or will not do... A contract is formed when competent parties ~ usually adults of sound mind or business entities ~ mutually agree to provide each other some benefit (*called consideration*), such as a promise to pay money in exchange for a promise to deliver specified goods or services or the actual delivery of those goods and services. **See Convention, pact.** *Bilateral contract:* mutually binding for both parties. In Intellectual Property law, contracts are essentially intended to assign or license commercial rights and ensure confidentiality; these contracts must be written, failing which they may be annulled.

Conventional File I. B. (*Identification and Business Case*) also referred to as **C.F.I.B.:** Questionnaire of the **USD-consultant**, including an original operating code which results in:

- a) Identification of the author with his work and;
- b) A **Business Case** (*financial and strategic*) for the product or service

Its procedure of application provides the author of an invention with the means required to prevent arbitrary seizure of his property and defend his moral and material interests resulting from the commercialization of his concept. By its use, the **C.F.I.B.** first and foremost restores to their natural, sequential order the four basic functions of business required to commercialize the inventors' product or system. Thereafter, it also allows the inventor and his investors to verify, within well-defined contractual agreements, whether, technically, commercially, financially and industrially, the innovation resulting from the original concept is feasible. Thanks to its **educational virtues**, the **C.F.I.B.** allows the **USD-consultant** to analyze and synthesize the various juridical, technical, commercial, financial, industrial, administrative and **human** criteria inherent in the subsequent intervention of specialists who participate in the implementation and commercialization of the invention (*i.e. the innovation*). The conventional file is surprisingly easy to use, in spite of the complex problems that it helps solve.

Copy: *n. and v.* (1270, from Latin *copia*) **1°** Reproduction of a written record (*e.g. of a legal or official record*). **2°** (1677) A text from which one composes. **3°** The imitation or reproduction of an original; *the copy of an original work of art*. **Jur:** For copyright purposes, the physical form in which an expression is reproduced and retained over time, no matter how brief ... The exclusive right to prepare copies of an original work is one of the primary rights governed by a copyright. **4°** Illegal copy: unauthorized reproduction of an original work of art. *See imitation* **5°** Plagiarism (*See plagiarism*).

Copyright: *n. and v. (1830)*. A legal device that allows the author (*hence, the owner*) to legally control the use of his creative work. A copyright is comprised of a number of exclusive rights, including a right to make copies, authorize others to make copies, make derivative works, sell and market the work and perform the work. Anyone of these can be sold separately through transfers of copyright ownership. **NOA:** By the mere creation of his work, ***whether it is published or not***, the author holds, by virtue of international conventions and internal laws of his Nation, an intangible, exclusive, international, inalienable and permanent property that he can use legally to challenge third parties. The procedures required are few and simple. Contrarily to patent, copyright automatically grants the **author of an original work** (*belonging to Works of the Mind*), the exclusive right to produce, reproduce © or perform all or part of it regardless of the manner in which it is expressed, simply because the author ***enjoys a natural and private property***. Copyright lasts throughout the author's lifetime and fifty to seventy years after his death (*according to legislations*). There are two international conventions for the application of copyright: 1° The Berne Convention, created 9 september, 1886. 2° The Universal Convention on Copyright, created 6 september, 1952. **Comment: A frequently encountered form of misinformation, especially on Internet, consists in offering clients access to copyright by merely registering their secret idea at a given location, thereby providing proof of such registration. On the one hand, this kind of registration does not, as a rule, fulfill the criteria of Works of the Mind, and on the other hand, such a document forces the client to disclose his idea, without proving his authorship.**

Counterfeit: *n. and v. (F. contrefait, p.p. of contrefaire to counterfeit; contre (Latin contra) + faire to make fr. Latin facere See (Counter) adv. And (Fact) fr. Latin factio):* To imitate with a view to deceiving, by passing the copy for that which is original or genuine Related terms: **copy, falsification, imitation, pastiche.** *To counterfeit a book, a product. ~ To counterfeit money, bills.* **Jur. Counterfeit as offence or tort:** Counterfeit can be defined as a reproduction or representation or promotion made in violation of an author's copyright, (*if the counterfeitor uses the illegal imitation or copies the author's signature*). It can also be defined as a breach of rights granted by a monopolistic title, such as patent, design patent (*industrial design*), etc... As a verb: To illegally use a commercial or industrial monopoly granted to a third party. **NOA:** To counterfeit first and foremost means to falsify.

Create: *v. (1120, from Latin creatus, past participle of creare to create, akin to Greek krainein to accomplish)* 1° To make or cause to be or to become; 2° To bring into existence; *the company was created 25 years ago. He created a new movement in painting. ...*) 5° To create by artistic means: create a poem; "*Schoenberg created twelve-tone music*". (*a ghost writer is hired to write down an author's creative concept ... see **creation** herein*).

Creation: *n. (ME createn, from Latin creatus, creatio):* To bring something new into existence. **NOA:** According to international conventions on copyright and the internal laws of Nations related to such conventions, creating (*as an individual entity*) means to ***establish oneself as author*** of an original idea by putting it into concrete form onto a physical medium by applying rules and techniques that are inherent in a recognized art. These are the conditions and criteria for creating a new work of art, namely, a Work of the Mind. ***A Work of the Mind is a universal and inalienable property.*** ... "*...Forming the essence of imagination's vital unity, creative intuition combines a workman's intelligence and generative instinct, and*

achieves perfection through genius. Knowledge and ability being thus identified, one must conclude that the act of creating requires more than the mere realization of an idea's content..." (transl. fr. Encyclopaedia Universalis, vol. 5, page 67, ed. 1971).

Creativity: *n.* (prior to 1965 of French *créatif*) Creative or inventive power.

Creator: *n.* (1119, from Latin *creator*) ... **2°** One that creates, produces or constitutes. Related terms: **maker, author, inventor.** (See **creation** herein) When creating a literary or artistic work, the creator owns a Work of the Mind.

Deed: *n. and v.* (1338; from Latin *actum, subst. du p.p. agere* which means to do) Something done; *jur.:* a written instrument by which a person (or several person) transfers ownership of real property to another (e.g. to convey by deed). By extension, an act that leads to legal consequences.

Delay of priority: Delay imposed by virtue of the international convention on patents (*i.e. the Paris Convention*), which grants a maximum of twelve months to extend one's patent internationally. A similar delay of six months is granted for trade marks, design patents, (*industrial models and designs*).

Delay of transparence: As soon as a patent (or any other monopolistic title) is published, there is a period of several months during which one can contest its validity (*as a rule 9 months*). During this period, a third party may contest a title by sending a written notice to the Patent Office Commission. Anyone can contest a title by filing one or several anteriorities (*i.e. prior art*) made up of registered patents, patent applications or **printed material** that could, according to the contestant, invalidate the newly published patent.

Design: *n. and v.* ... **1°** The realization of an inventive or decorative plan; esp., a work of decorative art considered as a new creation; conception or plan shown in completed work; to create or produce, as a work of art; ... as a man designs an essay, a poem, a statue, a cathedral.) ... **2°** The act of working out the form of something (*as by making a sketch or outline or plan*); ...) **3°** something intended as a guide for making something else; "*a blueprint for a house*"; "*a pattern for a skirt*" ...) **4°** A decorative or artistic work. ...) **5°** The preliminary sketch indicating the plan for something; "*the design of a building*") **6°** Create the design for; create or execute in an artistic or highly skilled manner; "*Chanel designed the famous suit*") **7°** Make a design of; plan out in systematic, often graphic form; "*design a better mouse-trap*") ... **8°** Create designs; "*Dupont designs for the house of Chanel*". * Any drawing that creates a new and original decorative impression, any object that differentiates itself from other similar objects by its new shape, either by an external feature, or at least by some internal aspect that gives it a new look, is the property of its author by the mere fact of being created. (transl. from *Industrial Property Guide book, ibid.*). **NOA:** In order to legally obtain an industrial monopolistic title, the author must mandatorily register his work as a design patent (*industrial design*). (see chapter: *Design patents, Industrial Designs: Traps for the inventor in the book "Passport for prosperity!"*, pages 81 to 101).

Discover: v. (OE: *discoveren, discuren, descuren*, from OF: *descourir, decouvrir*, from Low-Latin *discooperire*) **A** - ... **2°** To disclose, to lay open to view, to make visible, to reveal, to make known, to show (*what has been secret, unseen, or unknown*). *Go, draw the curtains, and discover The several caskets of this noble prince. – Shakespeare. ... 3°* To obtain for the first time sight or knowledge of, as of a thing existing already, but not perceived or known; to find, to ascertain, to espy, to detect. {Syn: *to disclose... discover – invent: We discover what existed before, but remained unknown; we invent by forming combinations which are entirely new, or which attain their end by means unknown before. Columbus discovered America. Newton discovered the law of gravitation. Galileo invented the telescope.*

Distribution of commercial rights: An organizational concept for the commercialization of products or services called **Francession**. It is the opposite of Franchise (*since there is no standard version of it and one can therefore not duplicate it for different products or services*) and the opposite of any unlimited pyramidal system. Distribution of commercial rights means distributing such rights among enterprises with different competences that operate within a group of companies organized as a consortium, where each member undertakes to use its own specialty. The triennial business forecast included in the *Intellectual Passport C.B.* reflects the strategy of the author in a perspective of international commercialization. The basic principles of such a strategy: **Liberty ~ Mutually Interacting Competences ~ Loyalty ~ Joint Liability** are maintained thanks to original and high-quality contracts that are intrinsic to the business forecast. Distribution of commercial rights guarantees juridical independence to each enterprise hired by the author as members of a consortium, and restricts their liability to the field of their declared competence: ***The Inventeur licenses his concept and continues to invent; The Industrialist produces in the field of his specialty; The Salesman commercializes the product that he chose; The Financier invests in a safe and profitable system.*** (*see chapter in the book “Passport for prosperity!” pages 171 to 181*).

Exclusive: adj. (*from Medieval Latin exclusivus*) **1°** Having the power of preventing entrance; debarring from participation or enjoyment; possessed or enjoyed to the exclusion of others; as exclusive bars, exclusive privilege; exclusive circles of society. **NOA:** In property law, exclusive use or enjoyment means that which applies strictly to the owner. Unless they are licensed (*see below*), such rights are automatically exclusive worldwide. The right to enjoy and use a Work of the Mind is as basic and unquestionable as the right by an individual to use his/her own body. It is exclusive because the property is unquestionable. By comparison, a monopoly is restricted to the area of the Nation that grants it. **Comm:** That which is manufactured, produced, sold solely by one company... Purchase the exclusive right to use a trademark.

Exclusive license: n. A valid contract in which a copyright owner authorizes another person or entity (*called the licensee*) to exclusively exercise one or more of the rights (*or portion of such rights*) that belong to the copyright owner under the copyright.

Francession: Neologism used by its author in 1986 to define the concept of distribution of commercial rights (*Francession: Passport of the inventor by Michel Dubois and Dominique*

Daguet, Librairie Bleue Publication House, ISBN 2.86352 of 22.04.1988, Troyes, France).
Holder: *n.* (from *v.* to hold) A person who holds; **a)** the holder of a patent; **b)** one that holds or occupies the property of another by agreement, esp. under a lease. **NOA:** Except when the **holder** of a secret commercializes the invention or service, the commercial rights are **held** by the licensor or franchisor; one **holds** such commercial rights by virtue of a **license contract**. At law, holding means to dispose of something without owning it.

How-to-make skill: Neologism that defines technical mastery in a given specialty; sequentially, it ranks second among the four basic commercial functions: **Know-how** → **How-to-make skill** → **Information** → **Business savvy**.

I.I.B.F.: *Interactive International Business Forecast*. Part two of the "*Intellectual Passport C.B.*" presents a triennial business case that is not to be confused with a traditional business plan. First and foremost, even when the invention is still at the conceptual level, this forecast **defines the commercialization strategy** that will subsequently be required for the innovation. It therefore reflects the interaction of any number of disciplines. Thanks to the principles established in the "*Distribution of Rights*" described herein, each participant involved in the innovation process can evaluate his rightful benefits. The business case includes a synoptic table which, at a glance, succinctly and clearly describes the global results before tax over a three-year period, thus allowing one to re-evaluate assumptions concerning business volume, gross margins, royalties, etc... Using a traditional business plan, such assumptions a priori are not necessarily feasible. Thanks to the flexibility of this system, even before the entire strategy is implemented, one can therefore readily modify the figures until they are fully coherent. Rather than focus on the business of one single company, as often is the case, this business case takes into consideration the interest of each partner who may participate (*as member of a consortium*) in the innovation. The client who purchases the "*Intellectual Passport C.B.*" is under no obligation to adhere to this business case. Nevertheless, part two of the "*Intellectual Passport C.B.*" can be used to convince prospective investors and financiers of all kinds that the author is seriously undertaking to commercialize his invention. **It therefore is an excellent negotiation tool** that enhances the author's credibility through the quality of its presentation and through its detailed financial forecast. This business case stems from the principle of licensing commercial rights (*i.e.* the "*Distribution of Rights*"). This principle **is based** on the rights emanating from the author's natural property, including any commercial right applied through the four sequential stages of the global innovation process: **know-how** (*intellectual effort*), **how-to-make skill** (*practical skills*), **information** (*marketing-promotion*) and **business savvy** (*distribution and sales, customer's support. etc...*). These four sequential stages represent four basic commercial activities that fuel business: **conceptual design** (*creation-invention*), **production, publicity and commerce**. Each participant therefore is assigned a commercial right based on his respective specialty.

Industrial design: *n.* Industrial design means features of shape, configuration, pattern or ornament and any combination of those features that, in a finished article, appeal to and are judged solely by the eye. Under United States law, it is called design patent, as opposed to utility patent. (*Industrial Design Act, Canadian Intellectual Property Office, Article 2, 2nd paragraph*). (See chapter: *Design patents, Industrial models and designs: Traps for the*

inventor in the book "Passport for prosperity!", pages 81 to 101) **Information:** *n.* Used in the context of the present book: information and promotion related to the field of marketing, publishing, communication (*and other forms of information*), which ranks third among the four basic functions of business: **Know-how** → **How-to-make skill** → **Information** → **Business savvy**.

Innovate: *v.* (1315, from Latin *innovatus*, past participle of *innovare* to renew, pref. in. *in+* *novare* to make new, from *novus* new) To introduce novelties or changes sometimes *in* or *on* something (*in a system, etc.*). *Everyman, therefore, is not fit to innovate. Dryden.* (see **innovation** above).

Innovation: *n.* (1297, from French *innovation*, from Latin *innovatio*) : **1)** The act of innovating; introduction of something new, in customs, rites, etc. *Dryden.* **2)** A change affected by innovating; a change in customs, something new, and contrary to established customs, manners, or rites *Bacon.* NOA: ***Innovation can be defined as the introduction of an innovative concept or product into the market.***

Innovator: *n.* (1500, from low-Latin *innovatore*) One who innovates. NOA: One who introduces something new or previously unknown into an established system. The innovator often is an entrepreneur ahead of his time. (see **innovation** below) According to various international agreements on Intellectual Property, as well as to the World Trade Organization and the internal laws of Nations, the *innovator* is one (*individual or legal entity*) who introduces an original concept or an innovative product (*industrially or by handicraft*) into the market.

Intellectual Passport C.B. also called I.P.C.B.: The "*Intellectual Passport C.B.*" is a literary and artistic work with a commercial and social purpose. As a rule, it remains unpublished. In order to create such a work, one must use an original, exhaustive and universal guide book called "*Conventional File I.B.*"; this operating code serves to **Identify** the author of the work and add **Business** value to the related commercial strategy. When using this guide book, practitioners must follow the natural and axiomatic order in which the three dynamic virtues that have always activated mankind's progress occur sequentially: **CREATION – INVENTION – INNOVATION...** This is the order in which the author first conceives his new idea in its virtual form, from the initial thought until it has been put into concrete form onto a physical medium: i.e. **creation** (*Work of the Mind, inalienable property which the author owns definitively*). This initial mental process leads to **invention** (*finding a previously unknown method or system*), which results from creation. Invention in turn leads to the next phase, i.e. **innovation** (*commercializing the innovative product obtained by applying the original method or system resulting from the initial work*). Such a sequential order has been ignored for more than two hundred years. Given the basic, unquestionable origin and the inalienable nature of the Work of the Mind, the use of this equitable guide book helps restore moral right to its natural place, namely the first one. A universal certificate of anteriority, the *Intellectual Passport C.B.* is the "*personal property*" that supports secrecy and can be used to invalidate a subsequent temporary "*monopolistic title*" of commercialization (*patent or other*), in any Nation that adhered to one of the two international conventions on copyright or any Nation that adhered to the U.N.'s Charter. This work also provides its author with a negotiation tool,

since it includes the following intrinsic elements: “**a set of ownerships and rights**” that belong to him; **a triennial business forecast that reflects various specialized activities**: the **I.I.B.F.**; finally, **its related original system of contractual distribution of commercial rights**. This set of texts, this business forecast and this system are open and progressive; one can implement them simultaneously, independently from one another or one after the other. The “*Intellectual Passport C.B.*” stimulates business growth worldwide. **An original strategic service that facilitates access to Intellectual Property**, it serves both private and public interests and promotes market penetration at a global level. By offering the industrialist the possibility of registering exclusive patent rights, this new product fosters mutual trust between the creator (*armed with this work*) and the industrialists/entrepreneurs. *This didactic instrument* is destined to act as a stimulus to constantly emerging innovations which ensure scientific, technical and technological progress, whether in the field of industry, services or art.

Intellectual property: Titles of monopolistic commercialization as well as copyright and business savvy (*secret or disclosed*) make up part of Intellectual Property... *According to leading experts, such as Roubier (France) titles of commercialization are “clientele rights” which have one basic feature: monopoly. Thus they represent a third category of rights, after the personal and real rights. Roubier’s decision to classify these titles as rights of clientele is based on the fact that such monopolistic prerogatives control the clientele in an original way with regards to property rights and claims.* (transl. from Précis Dalloz, Industrial Property Law, by Albert Chavanne and Jean-Jacques Burst, 3rd edition, 1990, pages 1 and 2).

Intuition: *n. (from scolast. Latin intuitio, from intuitus, past participle of intueri, to look on; in – in, on + tueri: cf. French intuition.) 1° Direct apprehension or cognition; immediate knowledge, as in perception or consciousness; -- distinguishing from mediate knowledge, as in reasoning; as, the mind knows by intuition that black is not white, that a circle is not square, that three is more than two, etc.; quick or ready insight or apprehension. Sagacity and a nameless something more, -- let us call it **intuition** Hawthorne. 2° Any object or truth discerned by direct cognition; especially, a first or primary truth. NOA: Creative intuition is the source of every Work of the Mind.*

Invent: *v. (from Latin inventus, past participle of invenire to come upon, to find, invent; pref. in – in + venire to come, akin to English come: cf. French inventer.) 2° To discover, as by study or inquiry; to find out; to devise; to contrive or produce for the first time; -- applied commonly to the discovery of some serviceable mode, instrument, or machine. Thus first Necessity **invented** stools. Cowper.*

Invention: *n. (L. inventio: from Latin inventio, invenire to find cf. F. invention.) 1° The act of finding out or inventing; contrivance or construction of that which has not before existed; as, the invention of logarithms; the invention of the art of printing. As the search of it [truth] is the duty, so the **invention** will be the happiness of man. Tatham. 2° That which is invented; an original contrivance or construction; a device; as, this fable was the invention of Esop; that falsehood was her own invention. We entered by the drawbridge, which has an **invention** to let one fall if not premonished. Evelyn. NOA: Finding something that existed in the absolute and/or in the collective mind, but that no one had discovered previously. According to the*

international conventions on patent and the internal laws of Nations, the inventor is one who finds an original technical or technological method or product, that allows one to commercialize a conceptual design in a new way (*virtual form*). One is **presumed to be the author** of such a finding. The method or process (*i.e. the invention*) is patentable. Consequently, patent, much like the industrial design (*classified as design patent in the United States*), is a title of monopolistic commercialization that can be either transferred or licensed. ***Invention results from the finding of a method or product and from its subsequent development.*** *By association to discovery, Christopher Columbus invented America but did not create it, since it already existed. However, he originated the idea and the specific means of reaching America. Likewise, as with a cave or a treasure, one discovers, and therefore invents such findings.*

Inventor: *n.* [L.: cf. F. inventeur. *Latin inventor, inventrix, from invenire to find*] One who invents or finds out something new; a contriver; especially, one who invents mechanical devices.

Joint ownership: *n.* (*v. to join + own OE ohnien, ahnien, AS & amcr;gen, p.p. of āgen to possess*) **1°** System where several individuals of legal entities share ownership. It usually is established by a written agreement. In patent matters, specific rules must be applied, since such **titles are temporary** and are therefore shared by **joint title holders**. **3°** Joint owners of a Work of the Mind are subject to the rules of joint possession. This is the legal system best-suited to guarantee the joint liability of co-owners toward third parties and competitors.

Know-how: **NOA:** A new and more precise meaning of this word: To have an original and inexperienced grasp of a specific subject. This definition ranks first among the four basic functions of business: **Know-how** → **How-to-make skill** → **Information** → **Business savvy**. (*see business savvy herein*).

License: *n. and v.* (*Anglo-French, literally, permission, from Old French, from Latin licentia, from licent-licens, present participle of licEre, to be permitted, be for sale*) ~ **1°** A contract giving written permission to use an invention, creative work or trademark. A license provides a way to make money from your invention or creative work without having to manufacture and sell copies yourself. By licensing an invention or work to a company, you get money (*often in the form of royalties*) in return for allowing the company to use, produce and sell copies of your invention or work in the marketplace. **2° NOA:** In Intellectual Property: the transfer of a commercial right or a private property to a licensee for a given period of time, usually in exchange for royalties. A license is similar to a lease, it can grant exclusive or non-exclusive rights. **3°** The act of granting a license.

Licensee: *n.* (*from license*): Someone to whom a license is granted. The licensee is granted a temporary right(s) from a third party who either holds or owns such rights.

Licensor: *n.* someone who grants a license. **Literary and/or artistic property:** The unquestionable and exclusive property of a creative work that was put into concrete form onto a physical medium, according to rules and techniques of literature or any other art... Since such property is unique and inalienable, it is also universal and permanent. (*see Proprietor/Owner below*).

Model: *n and v.: (Fine Arts)* To make a copy or a pattern; to design or imitate forms; as, to model in wax. A miniature representation of a thing, with the several parts in due proportion; sometimes, a facsimile of the same size. Something intended to serve, or that may serve, as a pattern of something to be made; a material representation or embodiment of an ideal; sometimes, a drawing; a plan; as the clay model of a sculpture; the inventor's model of a machine. (*The application for a patent*) must be accompanied by a full description of the invention, with drawings and a model where the case admits of it. – Am. Cyc.

Monopoly: *n. (Latin monopolium from Greek monopôlion, from pôlein sell; alone + to sell.) 1°* The exclusive power, or privilege of selling a commodity; the exclusive power, right, or privilege of dealing in some article, or of trading in some market; sole command of the traffic in anything, however obtained; as, the proprietor of a patented article is given a monopoly of its sale for a limited time; chartered trading companies have sometimes had a monopoly of trade with remote regions; a combination of traders may get a monopoly of a particular product. Raleigh held a **monopoly** of cards, Essex a **monopoly** of sweet wines. *Macaulay*. Comm. **NOA:** A system that grants one single enterprise total control of supply in a given market, thereby preventing competitors from enjoying free competition. As far as Intellectual Property is concerned, a monopoly is a business system granted by sovereignty of State. By comparison, ownership is enjoyed exclusively by the owner. Such exclusive ownership is worldwide. The ownership of a Work of the Mind is as natural, hence as unquestionable as an individual's right to use his own body.

Patent *n. and v.: (Anglo-French, from Latin patent-patens, from present participle of patere to be open) 1* - an official document conferring a right or privilege **2** – The right to exclude others from making, using or selling an invention or products made by an inventive process that is granted to an inventor (**NOA:** *presumed or alleged inventor*) and his or her heirs or assigns for a term of years. A patent may be granted for a process, act, or method that is new, useful, and not obvious, for a new use of a known process, machine or composition of matter or material... *v.* to obtain or grant a right to (*something*) by a patent.

Patent agent: An agent who, technically and juridically, is highly qualified and who has serious experience. His juridical training extends well beyond the field of utility patents and also includes design patents (*patents and industrial designs in Canada*), trademarks, copyright and contractual law. Patent agents are therefore highly qualified persons who follow a strict code of ethics, especially with regards to professional liability, and can therefore be subject to disciplinary measures that can include suspension and radiation.

Patentable invention: An invention that meets the criteria of patentability (*see the chapter: The mythical criteria of patentability in the book "Passport for prosperity!", pages 127 to 130*).

P.C.T. : Patent Cooperation Treaty (*Washington D.C. 19 June, 1970*), which allows one to register one patent application in more than seventy countries (*see chapter: The fabulous search for anteriorities in the book "Passport for prosperity!", page 133*).

Personal Prior Possession: See the chapter that deals with this subject, in the book "*Passport for prosperity!*" pages 57 to 66.

Plagiarism: *n.* (from Latin *plagiarius kidnapper "who steals other people's slaves"*; Greek root *plagios "wily, rascal"*). *One who steals the works of authors. This led to the verb plagiarize which means: 1° to copy an author by illegally taking parts of his works ... 2° imitate*. **NOA:** While it should rank first among the means of defending copyright and dissuading copiers, this crucial word has been almost entirely ignored in legal treatise on Intellectual Property (*see Michel Dubois's correspondence in the book "Passport for Prosperity!": Aftermath of the Tri-Tex case, pages 191 to 195 and comments on the publication of the book: Protecting the Enterprise, pages 202 to 208*). A plagiarist is someone who knowingly and fraudulently imitates all or part of a third party's work, in order to take advantage of its qualities. Plagiarism must be considered as outright spoliation/theft, punishable by the laws governing literary and artistic property. ~ Since ideas belong to everyone, plagiarism consists in taking the essential features of all or part of a third party's work. Thus the copier composes a text or a painting that is strikingly similar in style and in content to that of a writer or artist who is recognized as such. ***If he signs in the author's name, then he counterfeits the latter's work. If he signs in his own name, then he plagiarizes it. In both cases, he is punishable by law.*** By applying the **USD-System** method, this notion of plagiarism is extended beyond its traditional (*and restricted*) scope. Indeed, how can a third party unauthorized by the author make an object without reproducing illegally the original drawing and its related texts? The same applies to a copier who illegally composes a set of elements or creates a mould. Hence the importance of being able to prove one's intellectual property prior to commercializing an invention or concept. The following illustration will demonstrate this necessity. ~ Let us compare a technical invention to a parlour game (*e.g. Monopoly*). Such a game does not meet the criteria of patentability, and even if it did, it nonetheless would remain the property of its author, and thus could be used legally against third parties. Even though it is original, the virtual idea of a game does not belong to anyone in particular. However, the expression of this idea becomes the intellectual property of its author as soon as the latter has put it into concrete form onto some physical medium. ~ *The following belong to the author:* a) The rules of the game (*literary property*) – b) His drawings and models (*artistic property*) – c) His trademark's name (*intellectual property*). ~ Logically, the same applies to an invention, provided that it is included in a book according to the criteria of a Work of the Mind, and not to those of patentability. The notion of plagiarism is intrinsic to the notion of theft or plunder or copy or involuntary reproduction. As such, plagiarism is related to: 1° Criminal law, since the plagiarist illegally takes a third party's property (*no property, no theft; deceit with criminal intent*); 2° Civil law, in so far as the plagiarist causes prejudice to his victim; 3° Commercial law, since it allows the plagiarist to benefit financially from someone else's property (*see the comments on the sentence rendered by the Court of Appeal of the Federal Circuit of Courts of the United States, and sections on "Plagiarism and Counterfeit – Unfair Competition" in the book "Passport for Prosperity!"*),

pages 106 to 109)...Notwithstanding the foregoing, there are countries where plagiarism is not codified as an offense. Nevertheless, all the offenses related to the present section (*i.e. committed by a plagiarist*) are punishable as unfair competition, which also implies the notion of theft. Indeed, the Work of the Mind is the unquestionable property of its author, and using it or taking parts of it illegally inevitably leads to prosecution and damages.

Producer: *n.* (from Latin *productus*) Individual or enterprise that provides goods or services.

Production: *n.* (from Latin *productus*) 4° The act of producing material goods or providing services; the activities and means required to create material goods or to provide services.

Property rights: Jur: 1° A right or interest in or involving property (*real property*) *e.g. a conflict between environmental regulations and property rights*. NOA: This nomenclature or lexical expression is widely used both by lawyers and lexicologists. It seems like a straightforward, easily explained expression, at least in its broadest sense. However, legal texts fail to distinguish between a right **to enjoy** property and a right **resulting from** property. This detail is crucial since, much like the confusion created by the words *protect, protection and know-how*, one can interpret this expression in different, even contradictory ways. Indeed, even though the principle of material property (*i.e. purchasing, acquiring*) is debatable from a philosophical point of view, the principle of property in its ordinary meaning is unquestionable. According to Nicole Lacasse, Doctor of Law (*see pages 202 to 208 in the book "Passport for Prosperity!"*), the crux of the matter, as far as Intellectual Property is concerned, can be defined as follows: "*In so far as they are applicable, such rights (i.e. Intellectual Property rights) give true protection to the creations of an enterprise*". This a priori seems to be an adequate explanation. Nonetheless, one must examine in detail what makes such rights applicable. The result of our analysis will certainly enlighten the reader. Indeed, after analyzing the global meaning of this "*expert opinion*", two conclusions become obvious. First, one must emphasize the fact that Intellectual Property rights provide no protection whatsoever; furthermore, one must point out the fact that such rights are applicable only in so far as they result from a true property. Logically, the owner enjoys rights resulting of his property, but he cannot enjoy property resulting from his rights! Moreover, the owner must protect such property in court if necessary. Significantly, registration institutes are generally called: Intellectual Property Institutes (*or Office*), rather than Institutes of Intellectual Property Rights, or Institutes for the protection of Intellectual Property.

Proprietor/Owner *n.* (*Proprietor: from Latin proprietarius – proprietas/ Owner: own OE ohnien, ahnien, AS & amcr;gen, p.p. of āgen to possess*): One who owns property, who uses property rights for his exclusive enjoyment. NOA: According to international conventions on copyright and the internal laws of Nations, the author of a Work of the Mind is its natural owner, merely by creating his work, *i.e.* by putting it into concrete form onto a physical medium. The rights resulting from such a work ~ "*Copyright*" and "*Royalties*" ~ are as unquestionable as filiation rights, and for the same reason: both are consubstantial. Much like a child who is conceived by his parents, the Work of the Mind originates in its author. In both cases, law expresses and records these natural facts in writing and the community merely acknowledges them. Comment: There is one major difference between a

Work of the Mind and a child. The former results from a creative act whereas the latter results from procreation. Humans cannot own their progeny. A work does not procreate. As a creative achievement, it definitively belongs to its author, just as a creature belongs to its creator. This is why the author enjoys inalienable, hence universal and permanent property. All forms of property that are purchased through transactions (*e.g. payment, barter*) have nothing to do with creation; indeed, there is no natural link between such properties and their owner. This is why the owner loses such properties as soon as he dies.

Propriety/Ownership: *n.* (from Latin *jur. proprietas*) The right to use and enjoy something, exclusively and totally within legal limits. Ownership is a real and permanent right on corporeal and tangible goods. (See *Owner/Proprietor*, above).

Protect: *v.* (from Latin *protegere* “shield in front”) To cover or shield from that which would injure, destroy, or detrimentally affect; secure or preserve usually against attack, disintegration, encroachment, or harm. **NOA:** Same criticism as for the word protection (see *Prolegomena: Protection = illusion in the book “Passport for Prosperity!”*, pages 25 to 28).

Protection : *n.* (from late Latin *protectio*) The act of protecting (see *protect herein*). **NOA:** This overused word has often led readers to misinterpret texts on Intellectual Property, whereas other, more precise words would have left no doubt in the reader’s mind as to the actual meaning of such legal texts (see *Prolegomena: Protection = illusion in the book “Passport for Prosperity!”*, pages 25 to 28).

Protocol: *n.* (from Latin *protocollum*, Late Grec *prōtokollon*, first sheet of papyrus roll bearing authentication and date of manufacture of papyrus; from *kollan*, *kollaô*, which means to glue together) ... **1°** An original draft, minute, or record of a document or transaction; specifically: the original record kept at a notary of documents or transactions from which he certifies copies. **2°a** A preliminary memorandum (*as of discussions and resolutions arrived at in negotiations*) **b** The records or minutes of a diplomatic conference or congress that show officially the agreements arrived at by the negotiators. **3°** An official statement or account of a proceeding ... By extension, the content of a protocol (*resolutions, agreement, operative protocol, written statement of an operation, set of rules, etc*).

Research and development: Various activities related to intellectual and business pursuits which lead to discovery, implementation and commercialization of knowledge, processes, methodology and new laws.

Symboltype: This neologism refers to the basic rules of ethics used in order to implement the concept of **Francesion** as a business system, according to the principle of distribution of commercial rights.

Symboltype Code of Ethics: See Symboltype herein.

Technical: *adj.* (from Greek *technikos* meaning: of art, skillful, practical from *technē* art, craft, practical skill + *ikos* “*techn* + *ic*”) **1°a** Having a special usually practical knowledge especially of mechanical or scientific subject. **b** Marked by or characteristic of specialization. **2°** Of or relating to a particular subject.

Technique: *n.* (from Latin *technicus*, from Greek *tekhnikos*, *tekhnê*, meaning “art, trade”; see *technical*) **1°** A body of technical methods, especially used in scientific research. **2°** The ability to use these methods effectively. **3°** A technical method of accomplishing a desired aim. **4°** The manner in which a creative artist (*as a writer or painter*) uses the technical elements of his art to express himself. **NOA:** Without the use of an appropriate technique, there can be no art.

Termination: *n.* **Jur:** The act of ending a contract for breach of obligations, failure to fulfill one or several undertakings.

Title: *n.* (Middle-English *titel*, Old French *titele*, from Latin *titulus*, inscription, label, title)... **2°a)** The union of all the elements constituting legal ownership and being divided in common law into possession, right of possession, and right of property. **b)** Something that constitutes a legally just cause of exclusive possession; the body of facts or events that gives rise to the ownership of real or personal property. **c)** The instrument (*as a deed*) that is evidence of a right; **4°** A description or general heading (*as of a chapter of a book*) **5°** The distinguishing name of a written, printed, spoken, or filmed production (*as a book, pamphlet, essay, or poem*) **11°a)** An appellation of dignity, honor, distinction, or preeminence attached on a hereditary or acquired basis to a person or family by virtue of rank, office, precedent, privilege, or attainment... or as a mark of respect.

Title holder: *n.* (from Latin *titulus*, see *title*). Who holds a title. **NOA:** A person who applies for and obtains a patent becomes title holder nationwide (*with the possibility of extending the patent internationally*). Similarly, for decorative and ornamental objects, one becomes title holder of a design patent (*in U.S.*), or industrial design (*in Canada and Great-Britain*) and industrial model (*solely in continental Europe*). One also holds a trademark. Indeed, much like an exclusive license, the State grants temporary titles of monopolistic commercialization. Given the specific way in which texts governing patent applications are written, becoming title holder of a utility or design patent can have serious repercussions: one must forfeit one’s natural access to copyright (*hence to royalties*). Indeed, unlike the Author who owns his Work, the title holder of a monopoly cannot claim ownership for his invention, since the law has classified the latter in the realm of **findings and therefore of discoveries** (*one can only find what previously existed and had not yet been discovered*). Neither findings nor discoveries can be classified among **creative works, hence Works of the Mind**. In this case, the word “ownership” cannot be applied to monopolistic titles, even though the inventor often thinks that such a temporary monopoly of commercialization grants him ownership of his product. Actually, he provisionally uses a right granted by sovereignty of State for a given period of time. It is so because inventions are “findings” and therefore do not result from a natural right. **In the literal sense of the word:** a title holder is someone who holds a title, i.e. has a legal Right (*much like a driver’s license*). It is a temporary and monopolistic right to

commercialize that the **inventor** (*i.e. the title holder*) undertakes to use directly or indirectly in order to maintain all or part of the title's validity. Only the owner of a Work of the Mind automatically enjoys the rights resulting from his ownership: **copyright and royalties**. There is no need to apply for such rights, since they are granted automatically as a result of his creation. The author declares the creation of his work, whereupon the administration sends him either an ISBN (*National Library*) registration number or a copyright number, depending on his choice. The State records such a creation just like the birth of a child.

Trade secret: Secrecy is incompatible with patent, since the content of a patent application is automatically made public eighteen months after the date of registration. **NOA:** Without proof of intellectual property, secrecy can unfortunately not be defended legally. This is due to the fact that patent being a monopolistic commercial title, it can therefore not establish authorship, hence ownership of an invention. Without a proof of seizable personal property, filed in court to establish the presumed author's personal prior possession, the only means to defend secrecy is secrecy itself. (*see Tri-TEX case in the book "Passport for prosperity!", pages 189 to 199*).

Trademark: A word, phrase, logo, symbol, color, sound or smell used by a business to identify a product and distinguish it from those of its competitors. If the business uses the name or logo to identify a service, such as photo copying, it is called a service mark. In practice, the legal protections for trademarks and service marks are identical.

Transfer: *n. and v.* **1° Jur.** Conveyance of a right, title, or interest in real or personal property from one person to another. The act of conveying such right, title or interest.

Unfair competition: **1°** An overarching term describing any commercial activity that tends to confuse or deceive the public about the sale of products or services. It covers such diverse activities as trademark infringement, false advertising and theft of trade secrets. If a court finds that an activity constitutes unfair competition, it will generally prevent that activity from occurring in the future and award money damages to the person or company harmed by the activity. "*Such infractions often coincides with other infractions against commercial rights resulting from intellectual property*" (*transl. from the Industrial Property Guide published May 1988, by the National Company of French patent counsels*). In most cases, unfair competition is intrinsic to plagiarism.

USD Consultant: A representative specialized in providing added commercial and social value to innovative concepts ~ By promoting the "Intellectual Passport CB" and making it available to his clientele, the **USD-Consultant** participates in the creation of a work that favors business development (hence social progress). Indeed, such a work liberates inventors, innovators and investors (*i.e. those who originate commercializable concepts*) from administrative and financial restraints that, until now, prevented much wealth from materializing. As promoter and upholder of the universally accepted principle: "every Work of the Mind belongs to its author", the **USD-Consultant** uses his specific competence in order to provide his clients with: the right to enjoy art, to participate in scientific progress, to enjoy ownership of their works, to have the means required to defend their property from arbitrary seizure and to

benefit from the protection of the moral and material interests resulting from the production of their works. Thus he helps to enforce articles 17 and 27 of the Universal Declaration of Human Rights. In order to fulfill such a task, the **USD-Consultant** must have all or part of the following qualities: a methodical approach, open-mindedness, a discrete attitude, a strong sense of ethics, thoroughness, psychological insight, persuasiveness, teaching and motivational skills. Such a progressive activity answers the needs of citizens from every walk of life: creative shopkeepers, traditional inventors, conceptual designers in any field of activity, as well as entrepreneurs who seek a safer and more profitable environment. Such consultants are therefore subject to a strict code of ethics, especially with regards to professional liability, failing which their right to practice can be suspended or even withdrawn.

USD-System(*Universal Strategy Development System*): The name given to the international consortium of editors that distributes and promotes the *Intellectual Passport C.B.*. (see *USD-System method herein*)

USD-System (method): The *USD-System* Method allows the originator of a concept to include and describe a patentable or unpatentable invention in a book (*true literary and/or artistic Work of the Mind*), thereby establishing his authorship, hence his unquestionable ownership of such an invention. Nonetheless, as part of a literary and artistic expression (*i.e. a Work of the Mind*), the description of the invention does not have to include a detailed technical explanation, such as in a patent application. Consequently, a professional (*or technical expert*) cannot reproduce the invention by merely putting into practice this description. In other words, it is not a virtual patent. Furthermore, **in order to make a production tool and/or transmit directions for use or rules, an unauthorized third party cannot reproduce three-dimensional versions of the product or service without plagiarizing all or part of the author's work**. Significantly, procedures are much simpler than under patent rules. If copied, the owner of an "*Intellectual Passport C.B.*" can take action for plagiarism. The procedures are the same way as when an artist takes action against an unauthorized third party who copies a work of art identical to a design patent (*industrial design*), in order to make a production tool. Furthermore, thanks to up-to-date computer technology, the *USD-System* services provide clients with an international, made-to-order business forecast (*the I.I.B.F.*), that reflects any number of disciplines. This business forecast is delivered with the matrix of the book. Furthermore, a series of sample contracts allow the client to implement his business strategy. These three basic elements: **historical account and description – business forecast – contracts**, make up the essential means of defense for the author, as well as an excellent negotiation tool that can lead to an equitable, dynamic and profitable partnership with investors, hence a successful business strategy. This original method is provided by the "*Intellectual Passport C.B.*".

Usufruct: The right to use property -- or income from property -- that is owned by another. [L. usufructus, ususfructus, usus et fructus; usus use + fructus fruit.] (Law) The right of using and enjoying the profits of an estate or other thing belonging to another, without impairing the substance. *Burrill*. The person who enjoys usufruct is called *bare owner*. (*By extension*,

this notion has been applied to the patent holder who enjoys usufruct of an invention, without being able to establish his ownership. He can be referred to as bare holder.)

Utility: *n.* (from the Latin *utilitas*) The quality or state of being useful; fitness for some purpose; profitability to some desired end; Related terms: *Serviceableness, Usefulness.* NOA: How can one prove that art or works of art are useless? The mind of a person uses artistic techniques in order to create a utilitarian and functional object; this proves once and for all that without the unity of art, function and utility, there can be no preliminary original concept and therefore, no invention. The legal procedures of application in the realm of patent and industrial design lead us to believe that art and utility are two separate, incompatible worlds, and that a functional tool can never have a creative and artistic origin. This is the height of absurdity.

WIPO: World Intellectual Property Organization, Geneva, Switzerland.

Work of the Mind: Works of the Mind are classified among the works of art that result from a creative process. An excellent copier of works of art (*one who forges, 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 since it does 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. Mere scribbling or gibberish do not therefore constitute a work of art, let alone a Work of the Mind.

* * *

Synopsis of a decision rendered by the Court of Appeal of the United States' Federal Circuit of Courts, in favor of the University of Colorado on November 19, 1999, bearing number 97-1468, 98-1113

In the aforementioned case, the Court of Appeal of the United States' Federal circuit of Courts examines several points concerning the illegal use of innovative ideas concerning a new formula for prenatal multivitamin food supplement, after professors of the University of Colorado had published such ideas as their discovery.

This ruling is very important in that it shows how the Intellectual Passport C.B. unquestionably is the best strategy when one wants to develop and market a patentable original idea... The invention allegedly had been discovered by several professors of the University of Colorado. Unbeknown to them, the multinational AMERICAN CYANAMID COMPANY (& Leon Ellensbogen), deposited a patent claim on the original process of which they claimed authorship.

Alleging that the multinational had improperly taken advantage of their work, the professors asked the court to grant them compensation plus interests. Moreover, they also asked to be included among the patent holders of their invention.

The Court determined that the recourse of the professors' were founded to take legal action by virtue of the laws of the State of Colorado in order to obtain compensation or the unauthorized (i.e. illegal) misappropriation of their invention. Thus the judges of the Court of Appeal ordered the case to be heard by the Superior Court of first instance.

From a more technical point of view, the Court of Appeal also ruled that, having used, in its patent claim, part of an article written and published by the professors, the multinational as liable of plagiarism (illegal infraction by virtue of the Copyright Act). The Court of Appeal also ruled that, in certain cases, the author could obtain damages and interests... However, the Court determined that the professors did not prove that they wanted to earn profits by marketing their invention, thereby limiting their prejudice and therefore the amount of damages granted by the Court.

The Intellectual Passport clears the way for its owner to claim all damages that a copier of his concept or product could cause. Indeed, it is clear from the figures included in the business planning section of the Passport that the inventor wishes to gain profits by marketing his invention. Furthermore, the Passport establishes the inventor's inalienable and universal property on his concept and/or product, and the Court can only grant full damages if such property and therefore its resulting rights are fully proven.

According to the Court of Appeal in the case presently considered, the Professors can nevertheless claim a limited Copyright infringement because the Patent copies verbatim extracts from their article. The Court also allowed the professors to add their names to the List of patent holders of their invention.

The Intellectual Passport C.B. broadens considerably this recourse by allowing the inventors to enjoy full copyrights on a natural, universal and inalienable intellectual property. Such recourse is therefore applicable on a worldwide basis, thus allowing the inventor to seek redress in any country where his invention is patented or simply copied illegally.

Had the professors been aware of the Intellectual Passport C.B., and had they used it, the first instance Court would have been able to render a simple and unequivocal ruling. It would have granted damages and interests proportionate to the prejudice suffered by the professors, without any need for a further hearing.

USD-System Publications

The ***USD-System*** editors have created several booklets that analyze various aspects of Intellectual Property, as well as the distribution of rights strategy. Each booklet can be sent by mail service; the selling price is **10 \$** per booklet + transportation costs.

- 1- Testing the legal validity of the *Intellectual Passport C.B.**
- 2- Warning for journalists, inventors and organizers of exhibitions displaying new inventions.*
- 3- Arguments of attack and defense for the inventor who owns an *Intellectual Passport C.B.*
- 4- The mythical criteria of patentability and the fabulous searches for anteriorities.*
- 5- The *Intellectual Passport C.B.*: fingerprint of the inventor.*
- 6- The financial benefits of owning a Work of the Mind rather than registering a patent or industrial design.*
- 7- The inventor and the financial investor.
- 8- The distribution of commercial rights.
The actual market of Intellectual Property worldwide.
- 9- Introductory text on the *Intellectual Passport C.B.*
- 10- Memento for representatives of the ***USD-System*** consortium.

Apart from the Memento (*number 10*), every booklet includes a glossary on Intellectual Property specifically created by the ***USD-System*** editors.

The information included in these booklets is also available for **50 \$** + shipping costs in the book:

Passport for prosperity!

* Booklets number 1, 2, 4, 5 and 6 include a chapter on the technological vigil.

The ***USD-System*** editors are represented:

- in North America by ***USD-Canada***
5844, Park Avenue, Montreal, Qc H2V 4H3, Canada
tel: 1 (514) 274-3394 fax: 1(514) 274-9306 email : interlitt1usd@videotron.ca
- in Europe by ***Enviroliance***
145 Louis-Lumière Street, 44 430 Le Loroux Bottereau, France
tel: (33) Ø 2 51 71 93 93 fax: (33) Ø 2 51 71 94 94 email : pa.enviro@wanadoo.fr
- Web : <http://www.usdsystem.com>

NOTICE TO THE READER

1 – With regards to the texts of the present publication

The authors of the present publication aimed first and foremost to support the liberalization of intellectual property, thus making it affordable to the general public, and distributing it equitably among people whose rights are concerned both with 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, analysis and conceptualization of a logical and philosophical approach that formulates the criteria for validating a Work of the Mind, such as these criteria are based on principles established by the Berne Convention and the Universal Convention on Copyright.

In accordance with the policy of Intellectual Property institutes and offices worldwide to disclaim responsibility of their texts in official documents, the information contained in the present work is for guidance purpose only, and should not be quoted or interpreted as texts of law. All or part of the present work can become obsolete at any time, without prior notice. The legal basis for this work can be found in the laws governing patents, design patents (industrial designs and/or models), trademarks and copyright, the regulations related thereto as well as the judicial interpretation of such texts by tribunals.

* * *