

*“The evolution of Intellectual Property”*

**Avoid Intellectual Property theft  
and loss of market share!**

**The *Intellectual Passport CB***  
*- a strategic instrument with a guarantee -*  
**makes Intellectual Property  
affordable for everyone**

The *Intellectual Passport CB* maintains confidentiality and is the first form of Intellectual Property that inherently provides three key elements of evidence:

- 1 – it formally identifies the creator ~ the author of an original concept,  
*whether he be designer, inventor or entrepreneur*
- 2 – it provides the creator with a worldwide recognized property
- 3 – it demonstrates his business intentions

*“In the realm  
of Intellectual Property,  
the only “protection” available  
is the inventor’s financial means  
to defend himself  
in a court of law”*

**Dominique Daguet**

*“What does “protection” mean?”  
If ... your patent is infringed,  
you may sue for damages  
in the appropriate court...”*

**Except from the Guide to Patents  
page 11, ISBN 0-662-84233-2  
Canadian Intellectual Property Office**

## **Foreword**

**Given the misleading use of the words “*protect*” and “*protection*” in the realm of Intellectual Property, Michel Dubois has made the effort to: where appropriate, replace these words with more precise words, depending on the context and; to highlight them using “*quotation marks*” when they are an integral part of a quoted text from a third party. Such is the case for all documents published by *USD-System* editions.**

# Who needs an *Intellectual Passport CB*?

## Anyone who is considering putting an original idea into tangible form!

**1** - First and foremost, **the creator, namely, the author of an invention or system** (which includes services or a distinctive skill or methodology) needs the **Intellectual Passport CB (IPCB)**. Intended as an instrument of **security**, it provides the author with: his universal property, its resulting commercial potential, a method of maintaining confidentiality, as well as, a means for the defences of his initial rights.

**2 – What is the *Intellectual Passport* <sup>®</sup> ?** It is an affordable literary and artistic work that comprises of three distinct parts:

### **Enlever le carré et les lignes**

- |                 |   |
|-----------------|---|
| <b>Part I</b>   | <ul style="list-style-type: none"><li>- a treatise on what founds intellectual property</li><li>- the author's biography</li><li>- the confidential description of the invention or concept</li><li>- alternative strategies against copyright infringement</li></ul>         |
| <b>Part II</b>  | <ul style="list-style-type: none"><li>- a market evaluation</li><li>- a confidential marketing strategy based on the distribution of commercial rights</li><li>- a three year forecast showing the potential benefits earned by each collaborator in the innovation</li></ul> |
| <b>Part III</b> | <ul style="list-style-type: none"><li>- a set of international contracts that can be used to implement the business strategy included in Part II</li></ul>  |

This work provides **entrepreneurs and businessmen** (from the “one man show” to multinationals) with **“an original approach”** that fosters a spirit of harmony for the various participants of a business venture, thus stimulating motivation and avoiding age-old disputes. Also included in this work is a new means of maintaining secrecy, as well as, new methods of avoiding and countering unfair competition and industrial espionage.

**Lawyers, financiers and business consultants** will find various **“efficient strategies”** for the marketing of original products/services and for the defense of the rights of originators of all kinds. Thus a vast and new market is now open to them.

**Patent agents** will find **“solutions”** to three long-standing concerns by: **1** – formally identifying the author of an invention, **2** – establishing the author's creation as his initial and tangible property, **3** – keeping such property and its resulting business strategy confidential for as long as possible: e.g. until the author has assigned his copyrights to a third party that can afford, if need be, the international registration, maintenance and legal costs associated with monopolistic titles such as patent.

**Investors and financiers** will find **“a new methodology”** that ensures: safer and better agreements with inventors or originators who are thus freed from the age-old fear of being copied and; likewise, entrepreneurs can work with greater independence.

As a literary and artistic work, the **Intellectual Passport CB** is a **legal** instrument of Intellectual Property that offers new perspectives for the launching of innovations, whether they concern industry, services or arts.

# The Intellectual Passport <sup>®</sup> and Patent

## Comparative table of estimated costs

List of successive operations and their implications	Patent: Title that one purchases	Intellectual Passport <sup>®</sup> : Natural Property*
Registration	<b>Patent \$150</b>	<b>Copyright \$65</b>
Delivery	9 to 24 months	Immediate
Commercial exploitation rights Duration and cost approx.	<b>National monopoly</b> 20 annual fees: or <b>\$3,500</b>	<b>Worldwide exclusive rights</b> The author's life + 50 to 70 years after his death
Obligations	Obligation to commercially exploit	None
Validity	The country of registry	<b>141 countries (WIPO)**</b>
Secrecy - Confidentiality	Must be published <b>hence disclosed</b>	Unpublished <b>hence preserved</b>
Professionnal fees (variable costs)	\$5,000 to \$11,000	\$3,000 to \$6,000
Fixed costs	Registration fees <b>\$ 350</b>	<i>Intellectual Passport</i> <sup>®</sup> <b>\$7,630</b>
<b>SUB -TOTAL</b>	<b>\$9,000 to \$15,000</b>	<b>\$10,695 to \$13,695</b>
Costs for international extension in 50 countries Fees+litigations+taxes	Approx. <b>\$250,000</b> Americas + Europe + Asia	<b>None</b>
Validity	<b>147 countries - WIPO</b>	<b>185 UN member countries</b>
Annual renewal fees ( <i>approx.</i> ) for <b>50 countries</b>	<b>+ then \$80,000</b> ( <i>over 20 years</i> )	<b>None</b>
Other fees ( <i>approximate</i> )	International business plan <b>\$15,000</b> minimum 6 international contracts <b>\$40,000</b> minimum	Business forecasts <b>included</b> 9 sample international contracts <b>included</b>
<b>TOTAL</b>	<b>\$396,000 to \$400,000+ tax</b>	<b>\$10,695 to \$13,695 + tax</b>

\* Ownership of the work is not assignable. Copyright resulting from a work can be assigned and licensed.

\*\* WIPO: World Intellectual Property Organization (Geneva, Switzerland).

In order to add market value to their products or services, the *USD-System* editions recommend that their clients register trademarks.

## Comment

The intellectual property on Mickey Mouse is more than seventy years old and yet its resulting copyright will still be valid for a good many years.

Had Walt Disney, when he created his famous mouse, registered a utility or design patent in order to produce it in three dimensions and in quantities greater than fifty, whether utilitarian or not, articulated or not, Walt Disney Studio would have lost its related commercial rights over fifty years ago, and the theme-parks it created from 1970 onwards would have never seen the light of day.

Countless court cases have been won by Disney ® and organizations like them. As a result, there exists voluminous jurisprudence condemning those who tried to plagiarize the author's famous artistic objects or characters, ***whether they were applied to utilitarian products or not.***

Based on the two international conventions that govern copyright, the internal laws of most countries and all related jurisprudence, the ***USD-System*** international consortium of editions offers the inventor from all walks of life the opportunity to use a ***Work of the Mind*** \*, like Walt Disney. Using the ***USD-System*** methodology, an inventor establishes his intellectual property by way of defining his creation(s) in a literary and artistic work (*unpublished or published, as the case may be*), prior to presenting the global project to third parties.

**A question for lawyers:** What lawyer ~ *daring to oppose this basic principle* ~ would stake his professional reputation and guarantee legal immunity to a client who manufactures (*for commercial purposes*) utilitarian products copied; **1-** from Walt Disney's creations or; **2-** from a writer's descriptive texts or drawings? The holder of an ***Intellectual Passport CB*** enjoys the same rights as those enjoyed by any artist or writer.

## A long-recognized principle

Much like books, programs on television, films, etc., each DVD or videocassette warns the user that it is illegal to copy all or part of its content for commercial purposes. Anyone who uses the ***Intellectual Passport CB*** (*a literary and artistic work*) in order to establish his property enjoys the same right as the author of a DVD or videocassette.

**See our first court case on page 8.**

\* Works of the Mind are classified as original, and therefore creative, works of art. An excellent copier of works of art (*a plagiarizer, for example*) is an artist who does not create. A work of art that does not emanate from creative intuition is not a Work of the Mind... Moreover, in order to provide its author with the resulting exclusive right "copyright", such a work must, in order to be understood, be created according to the specific techniques and rules that govern a given art, notably in the realm of literary or musical writing. Merely writing sentences or drawing shapes is therefore insufficient to establish an author's work as a work of art, let alone a Work of the Mind.

**Important notice:** Texts and drawings created within an enterprise (*legal entity*) that do not meet the criteria of a ***Work of the Mind*** result solely in commercial rights. Consequently, they cannot be used in court as Intellectual Property. Only through assignment or license from an individual person can an enterprise hold commercial rights originating from intellectual property.

**The inventor or originator is first and foremost a creator.  
For his benefit, *USD-System* editions recommends  
that he creates an unpublished Work of the Mind.**

**Comment:** The right to ownership of Intellectual Property is based on the principle of anteriority. Since this right by definition is intrinsic to the author's intellect, it can only be claimed by an individual person ... First and foremost, one must therefore clearly identify the author of the invention or concept... Anteriority can only be established through the recognition of the chronology of events, much like DNA proves one's paternity.

**Create:** literally means *bringing something new into existence*.

**Invent:** literally means, from Latin invenire invent, to *find something previously unknown*.

**Innovate:** literally means to be the first to *introduce something new into the market*.

*Table of chronology*

..... Past .....	..... Present .....	..... Future .....
<b>1- Anteriority</b>	<b>2 - Development</b>	<b>3 - Posteriority</b>
Creativity	Functionality	Commercial intent
Intellectualizing the concept	Actualizing the concept	Conceiving a business strategy for the concept
The global concept is brought into existence in a tangible form	Preliminary design and written description of the concept	Implementation plan for the business strategy
<b>A Work of the Mind</b> <i>(literary or artistic)</i>	<b>A Technical Work</b> <i>(technological)</i>	<b>A Commercial Work</b>
<b>1 - Creation</b>	<b>2 - Invention</b>	<b>3 - Innovation</b>
Conceptual design and its business potential	Detailed design of the concept	Marketing the end-product
- - - <b>Law applicable</b> - - -	- - - <b>Law applicable</b> - - -	- - - <b>Law applicable</b> - - -
Definitive property	Temporary title	Right held continuously
<b>Copyright</b>	<b>Patent</b> <i>(or other titles)</i>	<b>Direct exploitation</b>
no need to lay any claim	mandatory registration of claims	no need to lay any claim
Assignment / License	Assignment / License	Assignment / License
- - <b>Legal offences</b> - -	- - <b>Legal offences</b> - -	- - <b>Legal offences</b> - -
Plagiarizing the author's work	.....	.....
Copyright infringement	Patent* infringement <i>(*or other applicable titles)</i>	.....
Unfair competition	Unfair competition	Unfair competition

## That which no one has yet been able to challenge in a court of law: The worldwide property provided by the *Intellectual Passport CB*!

**Notice:** Regardless of the country where it is registered, patent is not a property! It is a contract between a so-called inventor and the public represented by the government of the country where the patent is registered. It is a State-granted license, which provides rights, imposes obligations and can be annulled like any contract. In spite of a two-century old, popular and misguided belief, patent is nothing more than a temporary **title** of exclusive commercial rights, similar to a monopoly. This title allows the holder (*individual entity*) to transmit the exclusive commercial rights to an enterprise (*legal entity*). Regardless of the specific internal laws of each Nation, this title is subject to the same international business laws, wherever it is registered.

### **According to experts:**

- A patent costs on average (*i.e. professional fees + tax*) from \$9,000 to \$15,000 per country, as the case may be. Defending the patent in court requires approximately from \$70,000 to \$250,000 per country, depending on the internal laws of each Nation.
- Due to the complex task of proving novelty (*and not anteriority*), as well as other hazards inherent in patent, patent is considered as an endless source of litigations and can therefore not be insured (see [www.dkpto.dk](http://www.dkpto.dk))... All of which proves that "protection" is an illusion.
- Given the aforementioned facts, one needs to budget \$300,000 to \$1,000,000 in order to extend patent coverage internationally and then defend it in court in each country where it is registered. Under these conditions, only a multinational can afford such a title (*i.e. patent*).

**Any proof of anteriority** (*i.e. not necessarily a patent*) can be used to invalidate a patent subsequently registered by a third party for the same invention. Numerous international court rulings have confirmed this point of law citing lack of novelty. This equitable legal principle supports the needs of the true author of an invention and therefore proves the usefulness of the *Intellectual Passport CB*.

The *Intellectual Passport CB*: a literary and artistic work that establishes one's anteriority (*i.e. prior art*) of the creative concept it contains thus providing the author of a patentable or unpatentable invention, service, methodology, etc. with **the only true intellectual property that exists**: the natural ownership of a Work of the Mind: a **universal** and **non-transferable \* property**. The *Intellectual Passport CB* also includes an original and international business plan as well as a matching set of contracts; it costs \$ 7,695 + consultant fees.

**Warning!:** Not only does patent inevitably disclose one's secrets, after its registration it cannot be changed to meet changing circumstances. Any change forces the patentee to register a new patent claim, hence repay the same (*or similar*) fees and costs. Unlike patent, the unpublished *Intellectual Passport CB* maintains confidentiality and can always be revised after its initial delivery. Having described the original concept as a whole, the author immediately enjoys worldwide ownership at an affordable cost.

**Time is money! If you wait too long, you may well lose your rightful market share!...**

In the case of plagiarism (*deliberate or accidental*), **USD-System editions** provide their clientele with an affordable service, a commercial strategy that, as a first step, helps pave the way for successful out-of-court settlements, which lawyers can negotiate in the victim's best interest. This strategy can also ultimately help lawyers establish the author's property and rights in a court of law.

Property is non-transferable, but the resulting copyright is assignable or licensable.

## Certificate of guarantee

Upon delivery of the *Intellectual Passport CB*, Michel Dubois, founder of the **USD-System** editions, provides the author of the work with a certificate of ownership that corroborates his claim.

Thanks to this certificate, anyone (*individual or legal entities*) who wishes to question the legal validity of the author's ownership of his work is invited to do so publicly:

- Through the media, provided a provisional right to counter the arguments is granted;
- In a court of law.

By virtue of the certificate that he delivers, as editor and expert in intellectual property, for the security of his clientele, Michel Dubois or his substitute undertakes to publicly prove (*and if necessary, before the competent tribunals*): 1) the legal validity of the *Intellectual Passport CB* as a medium for the creation of a literary and artistic work; 2) the author's resulting initial (*world-wide and permanent*) intellectual property; 3) the copyright resulting from such property that can be used against third parties.

## A Ground Breaking Court Ruling

### Court ruling in favor of an unpublished *Intellectual Passport CB* (in its early form)

In addition to the ruling rendered in 1999 by the Court of Appeal of the United States of America's Federal Circuit of Courts in favor of copyright over patent; to the ruling rendered in Belgium in 1997 in favor of the copyright of Hergé's heirs over the unauthorized copy of artistic drawings for commercial and mass-production purposes; to the countless court cases won by Walt Disney Studio over the past several decades for similar wrong-doings (*i.e. plagiarism*) **and above all** to the international ruling rendered in 1987 in favor of French Professor Luc Montagnier's copyright over American Professor Robert Gallo's patent for the discovery of the AIDS virus; for the first time, a modest inventor has successfully used in a court of law an unpublished literary and artistic work (*created in 1994*) against a design patent subsequently registered by a third party. This case confirms that a previously undisclosed creative work ~ *i.e. a secret or confidential work* ~ is a legally valid anteriority that can be used to annul a patent subsequently registered by a third party on the same invention. The details of this case are quite revealing.

In 1994, a French "**creator**" (*i.e. an inventor who became a creator through the production of a Work of the Mind*) included an original and aesthetic container in an unpublished literary and artistic work (*an early version of the Intellectual Passport CB*) entitled "*Change the city*" (*Librairie bleue éditions – library of inventions N° 2221 – Troyes – France*). In early 1997, namely one year after this innovative product had first been introduced into the market, a third party decided to copy and market it. Unaware of the existence of the **creator's** literary and artistic work ~ *and doubtless influenced by his legal counsels* ~ the **so-called inventor** registered a "*model*" (*a European form of design patent*) on this container on July 31<sup>st</sup>, 1997. Since no previous monopolistic title had ever been registered on this product at the "*INPI*" (*French equivalent of the U.S. Patent and Trademark Office*), the **so-called inventor** thought that he could safely claim monopolistic rights on this aesthetic container... By the end of the year 2000, claiming that he was the true inventor, the counterfeiter/plagiarist initiated legal proceedings against the chains of stores that were using the product described in the true **creator's** work: Slymag Super U, System U's Eastern Regional Head Office and Alliance Development Innovation. At first, the **creator** tried but in vain to reach an out-of-court settlement with the **so-called inventor**. In December 2001, he asked Michel Dubois to help solve this matter. As editor and expert in Intellectual Property, Mr Dubois then started a correspondence with the **so-called inventor's** legal counsels. This correspondence was based on a strategy aimed at obtaining a settlement or a prompt and favorable court ruling.

Having learned that the **creator** was legally the author ~ *hence the owner* ~ of the aesthetic containers, the **so-called inventor** asked one of Europe's leading expert on Intellectual Property, Mr. Jacques Azéma (*professor at Lyons, France*), to confirm the authenticity of the **creator's** literary and artistic work, which the latter had made available at his lawyer's office in Paris. Upon complying with this request, Mr. Azéma confirmed without hesitation that this **creative** work represented a legally valid anteriority that could be used against the **so-called inventor's** subsequently registered title.

Our disgruntled **so-called inventor** then brought the matter before the Tribunal of Commerce of Lyons. On September 30<sup>th</sup>, 2003, after a single hearing and a six-month delay, the court ruled in favor of the **creator's** copyright and dismissed the **so-called inventor's** suit on the grounds that his "*model*" (*bearing INPI N° 974631*) lacked novelty.

Undeterred, the **so-called inventor** appealed the judgment. On April 1<sup>st</sup>, 2004, the case was heard by the Court of Appeal of Lyons; less than two months later, the appellate court upheld the verdict (**Court of Appeal of Lyons, May 27<sup>th</sup>, 2004 – R.G. 03/06633**), thus confirming the judgment of the Tribunal of Commerce rendered eight months earlier. Justice was well served, at an affordable cost: one year of correspondence between Michel Dubois and the plagiarist's legal counsels, ten months for the ruling by the Tribunal of Commerce and eight months for the ruling by the Court of Appeal (*Both rulings required but one hearing*). The following year (*2005*), the appeal was maintained by the Court of Appeal's Review Committee. Finally, in 2006, France's Supreme Court ~ *the Cour de Cassation* ~ dismissed the **so-called inventor's** appeal. (*Cassation Case, July 4<sup>th</sup>, 2006 – R.G. 05/4797*).

## Unquestionable supremacy of copyright over patent

Professor Robert Gallo's **American** patent on the discovery of the Aids virus was annulled after an international inquiry in 1987 concluded that **French** Professor Luc Montagnier's copyright resulting from the publication of his discovery in the May, 1983 edition of **Science** magazine represented an anteriority (prior art). **This proves** that the person who initially registers a patent has no guarantee... **This proves** the primacy of legal right given to an anteriority (prior art) contained in a literary or artistic work... etc... etc... **This proves** the validity of the *Intellectual Passport CB*... One cannot deny the facts....

# Do you need an *Intellectual Passport CB*?

~ Check the box that applies to you ~

**1 – You never registered a title or a right:** for your own security, purchase your *Intellectual Passport CB* (which can always be updated after its initial delivery) without further delay and thus take the market by surprise while preparing the legal and commercial means of defending your worldwide property (i.e. both your concept and your business strategy)!

**2 – You already hold a national title of monopolistic commercial development (*utility or design patent, industrial design, etc*):** purchase your *Intellectual Passport CB* as soon as possible in order to enjoy worldwide property (i.e. of both your concept and your business strategy)!

**3 – You already hold an international title:** if there are still countries where you should extend coverage of your title, purchase your *Intellectual Passport CB* in order to enjoy worldwide property (i.e. of both your concept and your business strategy)!

**4 – You already hold a copyright as applied specifically to software:** understanding that this specific type of copyright encompasses less than literary and artistic copyright, you also do not have: the means to show a financial worth or an implementation or business strategy (i.e. business forecast and contracts). Purchase your *Intellectual Passport CB* in order to increase your peace of mind!

**5 – You hold a copyright © or ISBN number which grants a so-called copyright on a methodology, the rules of a game, crafts-related know-how, a recipe, etc.:** registering a copyright or ISBN number does not automatically result in copyright. Only the ownership of a veritable Work of the Mind (see page 5) grants you this right naturally... A copyright or ISBN number merely certifies the date of registration of the existence of a given work. This administrative registration does not prevent a third party from proving before a court of law that the description of your concept and related business strategy do not meet the criteria of a literary and artistic work. In order to enjoy authorship (i.e. true intellectual property), purchase your *Intellectual Passport CB*!

**Comment:** Since one cannot describe an original concept without some form of graphic illustration, one of the following three cases applies to you:

**Case n° 1:** **You never registered a title:** Include your graphic works in your *Intellectual Passport CB* and take the market by surprise (before your competitors) and enjoy worldwide property!

**Case n° 2:** **You hold a national registered design** (design patent, industrial design or other): Purchase your *Intellectual Passport CB* and enjoy worldwide property!

**Case n° 3:** **You hold an international registered design** (design patent, industrial design or other): Purchase your *Intellectual Passport CB* and thus fill the gaps worldwide!

**Nota bene:** In each of these three cases, the same legal principle applies: a registered design discloses your secrets and is valid for a more limited period of time! Only a formally artistic original drawing ~ or a formally literary original text ~ grants its author an unquestionable, worldwide and permanent intellectual property.

***Time is money! If you wait too long, you may well lose your rightful market share!***

For more details, please visit our web site at: [www.sosinvention.com](http://www.sosinvention.com)

This site will provide you with further information, as well as, testimonials of inventors.

## Notice to the reader

**A problem inherent in patent and a benefit provided by the Intellectual Passport CB :** In addition to the criteria of patentability and procedures for patent claims that may vary from country to country, several Nations have to deal with the questionable validity of so-called imported patents, especially those that do not require an examination procedure in their country of origin. Indeed, while these countries must recognize that an unpublished Intellectual Passport CB is an unquestionable anteriority (a Work of the Mind being the property of its author by virtue of its creation), a patent subsequently awarded to a third party who is acting in good faith in his country of residence cannot prevent the holder of an Intellectual Passport CB from successfully claiming his rights as a creator, namely, as the rightful author of a creative literary and artistic work.

### **With regards to the texts of the present publication:**

The authors of the present publication aim first and foremost to **liberalize access to intellectual property by making it more affordable to the general public** and to distribute its benefits equitably among people, in consideration of their 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 and analysis as well as a logical and ethical approach used to formulate the criteria for validating a Work of the Mind, 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 utility 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.

In order to add market value to their products or services, the *USD-System* editions recommend that their clients register trademarks.

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For an in-depth understanding of the *Intellectual Passport CB*, order the book by Michel Dubois & Co. **At last, intellectual property affordable for everyone!**