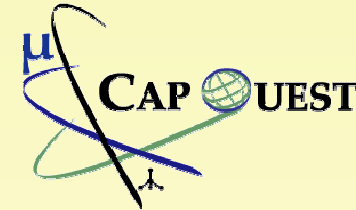
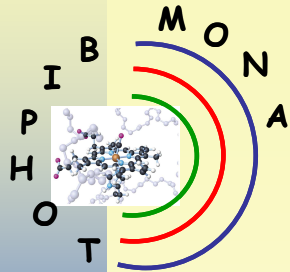


Creativity, Ethics of IP, & Moral right

Author-vating through Creation



Session in Applied Ethics of Creations

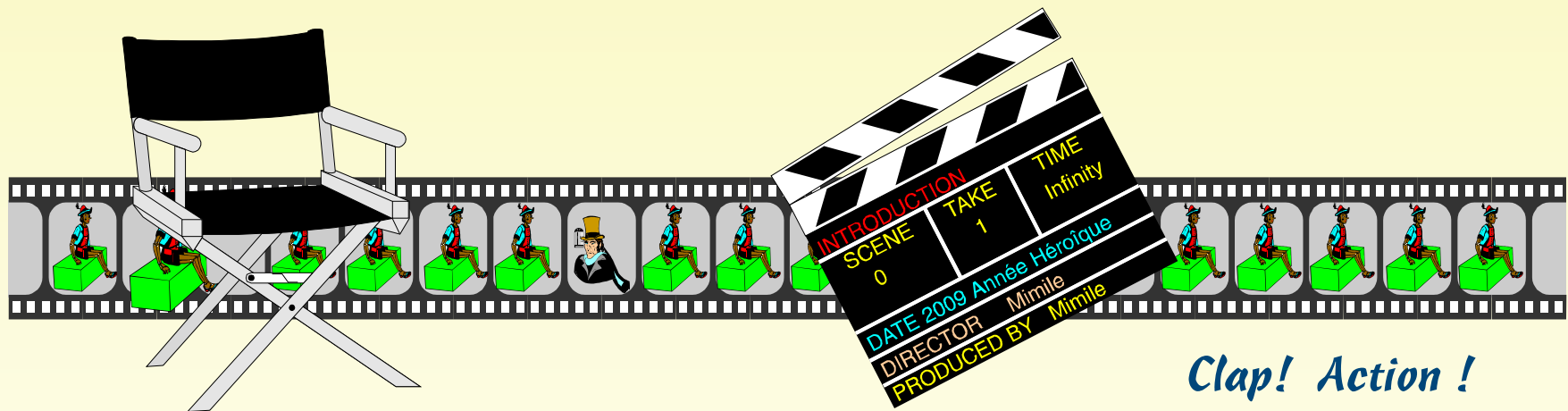
**A short enquiry concerning moral stand points on Ethics and
Human Creativity**

Erasmus Mundus Monabiphot, Frejus, 26 June-02 July 2011

Creativity; a keystone of human condition

...Watch my steps and open you mind...

Is the stage-manager both unconscious and aware ?

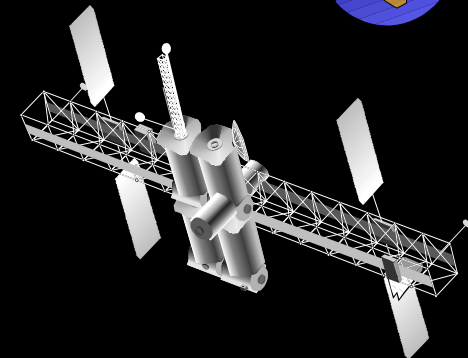
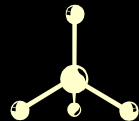
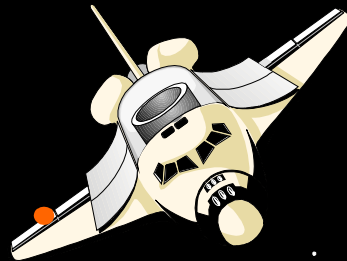
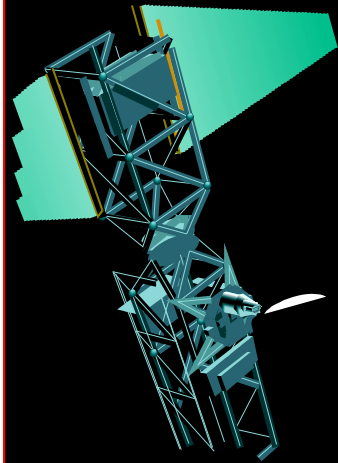


Clap! Action !

So much dreams to be made reality...

Then, imagine... that night,...

Houston,
We have a problem !

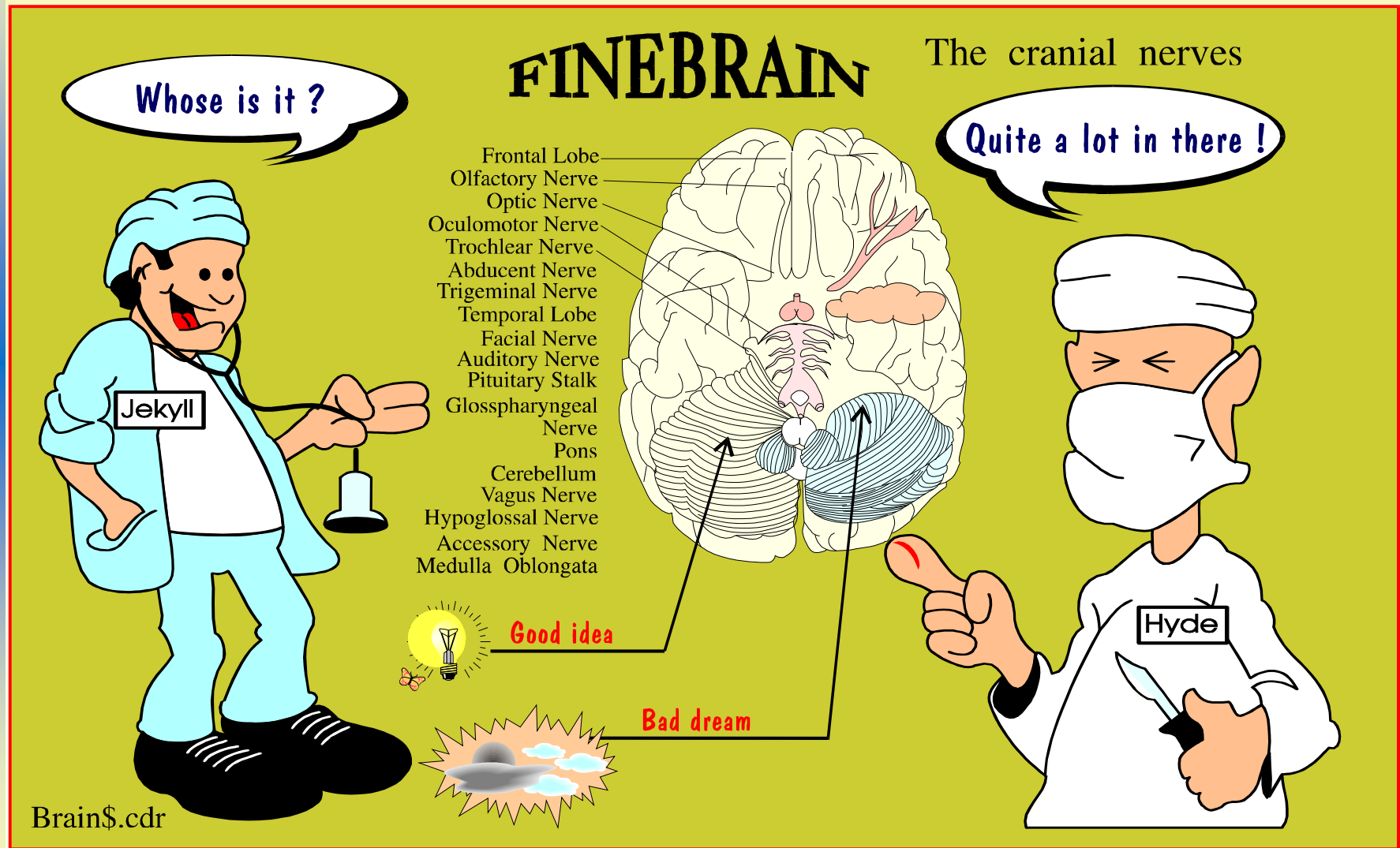


That night,... the captain had a dream...



What about a sailing ship in deep space ?

Brain is the common source of dreams together with ideas. They come and go in an easy way that most often we are unconscious of.



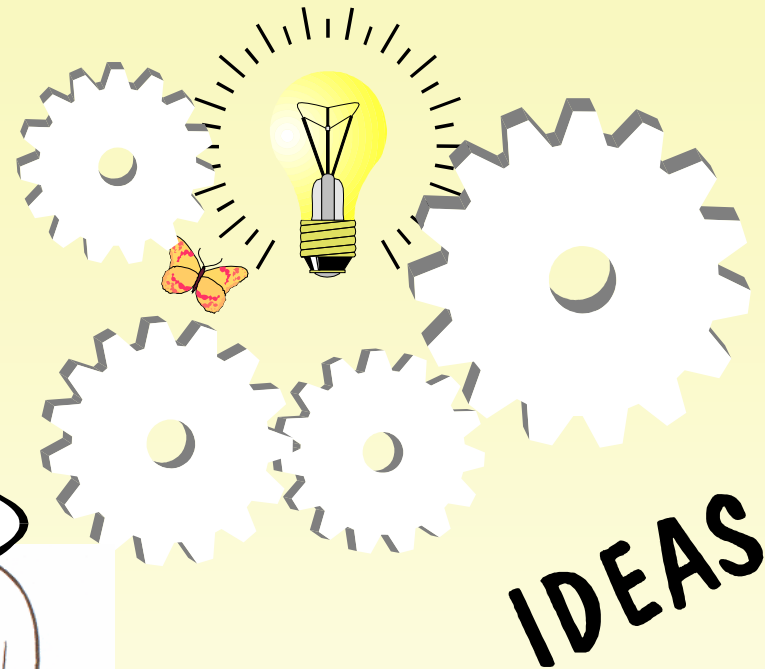
Ideas are freerange...

*That's not a free
mean path ☺*

As are Dreams, Ideas are freerange and by law, unentitled to any proprietary right.

However, one has to admit that some people have ideas while others have not...

That's too unfair !



On the other hand, as is wisely said, there is a time for everything, and everything comes at one's time.



And yet...

**Burn everything!
I want an auto-daf-é!**



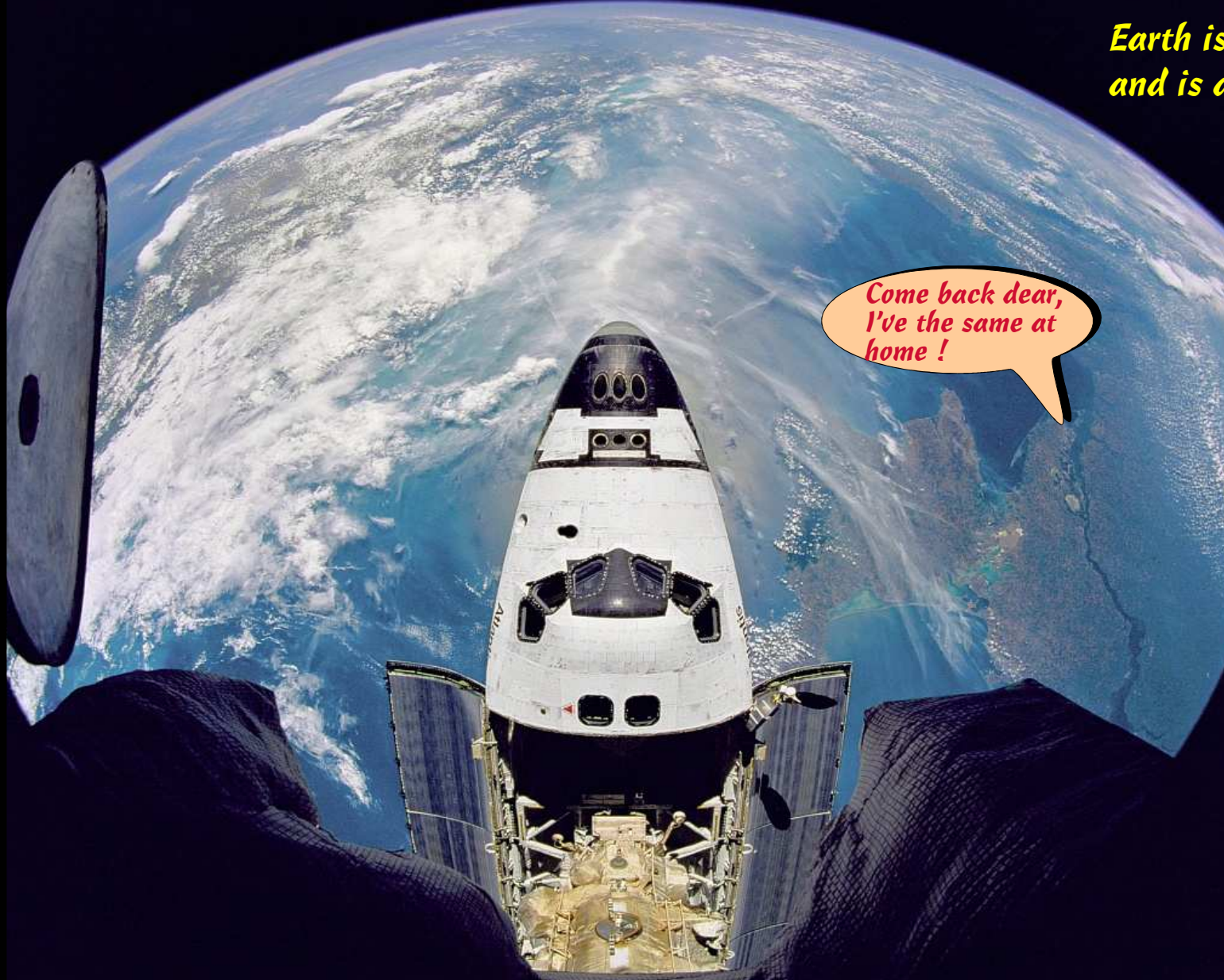
And yet... Waiting due time may be so hard...

Fortunately there is always due time for truth...

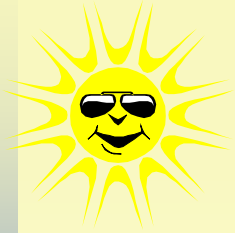
*Earth is not that flat,
and is also spinning...*

*Come back dear,
I've the same at
home !*

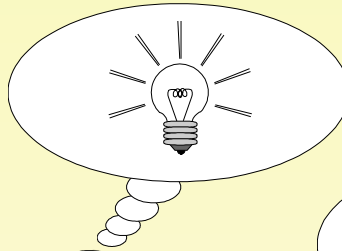
Thank you Good Ol'Galileo



😊 One has to admit that some artists have ideas while many others have not... ☹️



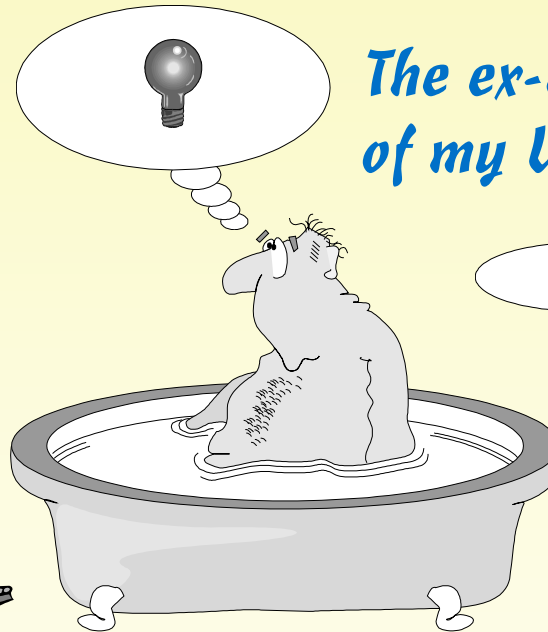
Socrates



Beethoven



Confucius



Some French minister



*The ex-President
of my University*



A retired trader



Of course there are exceptional minds,



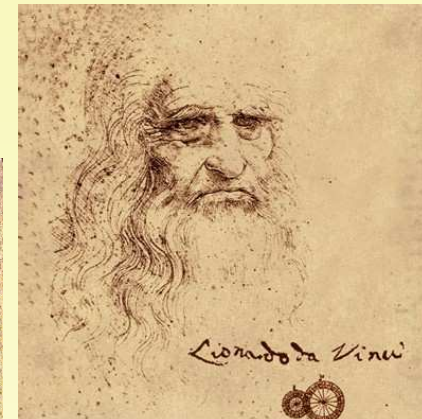
*Believe me!
Leonardo is a
Genius*



*Leonardo da Vinci
(1452-1519)*



La Joconde 1507



*A flying machine
Do you want to test it ?*



But throes sometime happen in creation

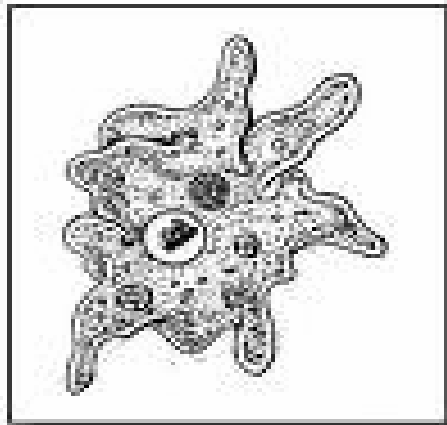
*Creation often takes its toll
on the artists...*



Psychopathologies	Famous people	Dates
<i>Melancholy, gloom</i>	Frédéric Chopin	1810-1849
	Jean-Baptiste Poquelin (Molière)	1622-1673
	François-Marie Arouet (Voltaire)	1694-1778
<i>Split personality</i>	Alfred de Musset	1810-1857
<i>Phobia</i>	Blaise Pascal	1623-1662
<i>Amnesia</i>	André-Marie Ampère	1775-1836
	Ludwig van Beethoven	1770-1827
	Denis Diderot	1713-1784
<i>Hallucination, delusion</i>	Johann-Wolfgang von Goethe	1749-1832
	Friedrich Nietzsche	1844-1900
<i>Maniac-dépressive Psychosis</i>	Gérard de Nerval	1808-1855
	Robert Schumann	1810-1856



Moreover there are also less than poor artworks...



Whoops ?

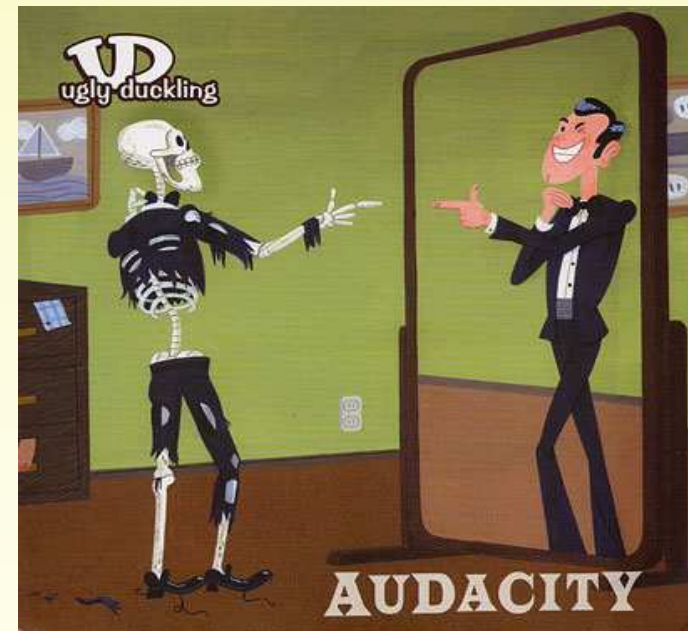
*Do you enjoy it ?
Humm... ugly ?*



Perhaps it's why Oscar Wilde told us :



*Bad art is a great deal
worse than no art at all.
(11/05/1882)*

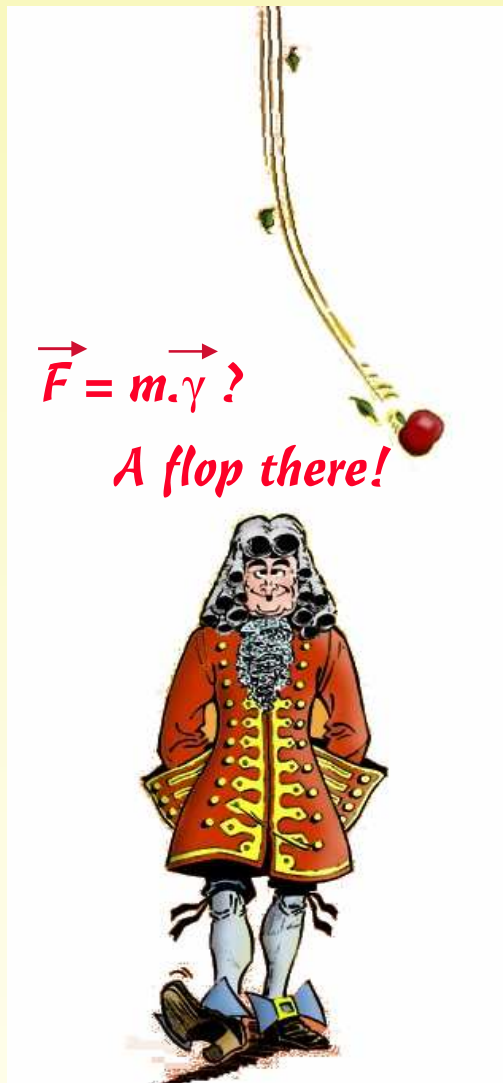


Oscar Wilde (1854-1900)

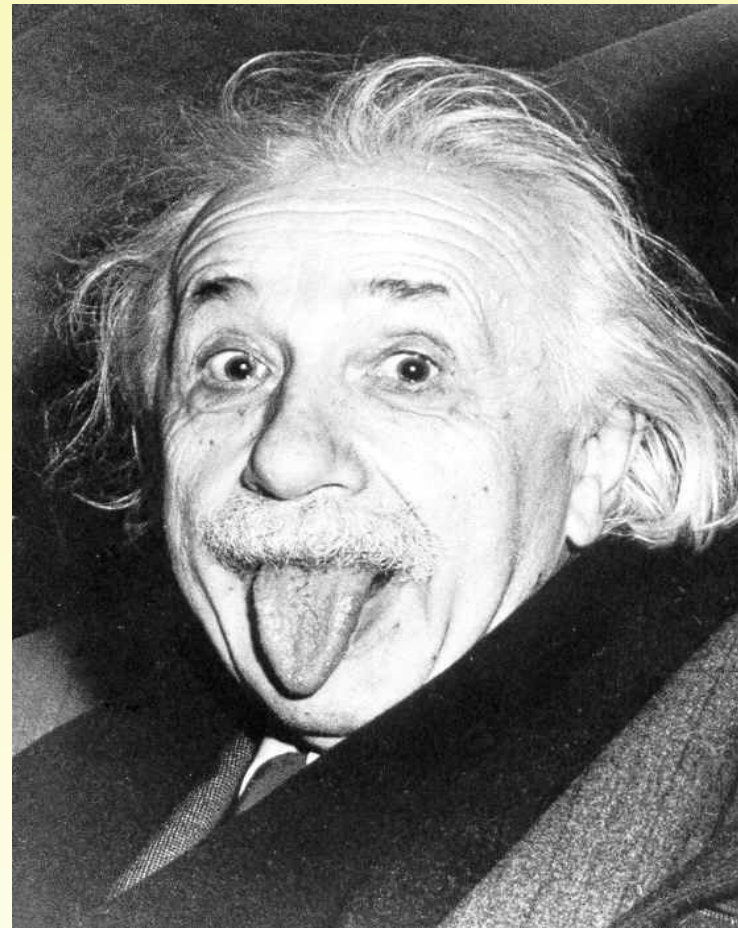
A metaphorical picture of Dorian Gray (1881)



Furthermore some ideas are quite fun...



Sir Isaac Newton (by Gotlib)
1642-1727



Albert Einstein 1879-1955

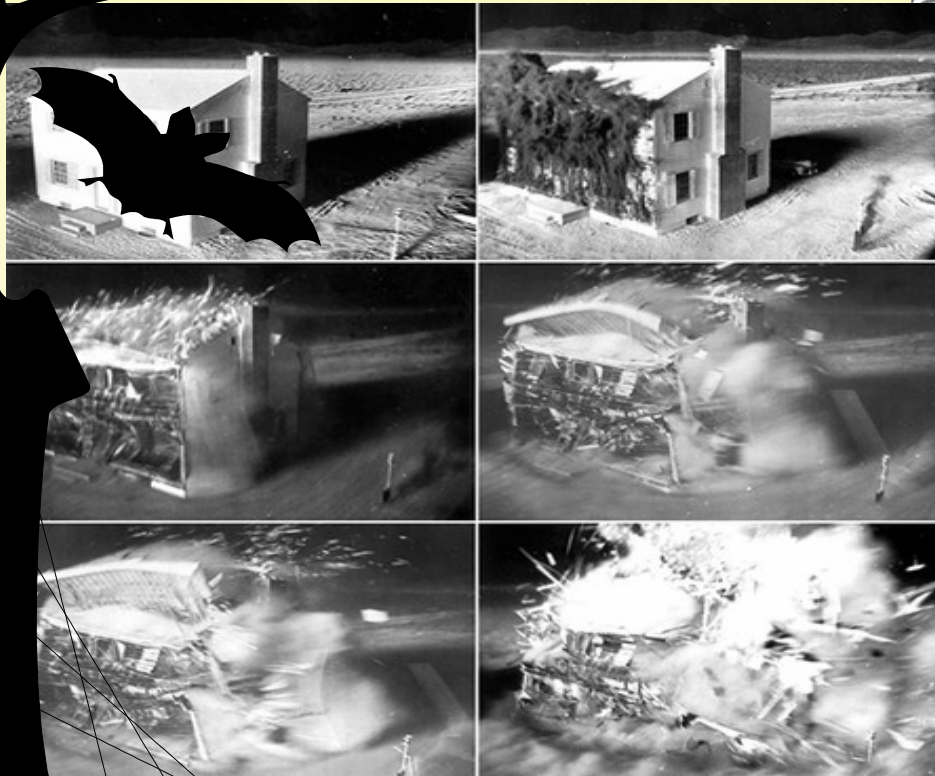
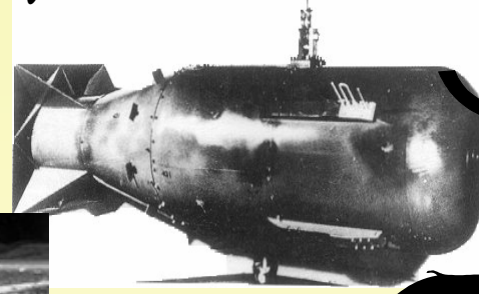
*A same problem was investigated by both
researchers with gravity... not seriousness...*



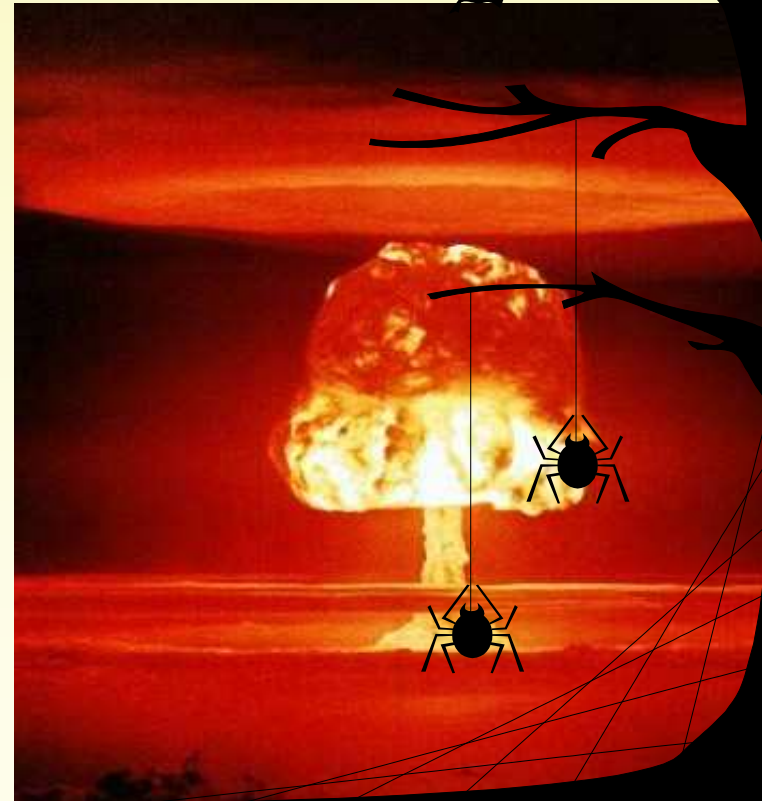
Dreams can become dreadful technological realities...

Mushrooms may cause nightmares... hallucinogenic...

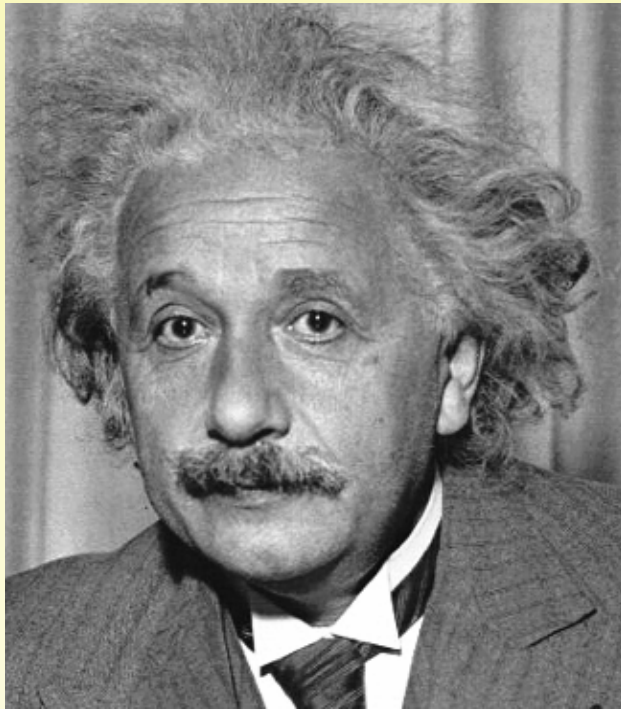
Little boy Hiroshima 6/08/1945



Los Alamos 16/07/1945 first test



Then what about our good/bad scheme ?

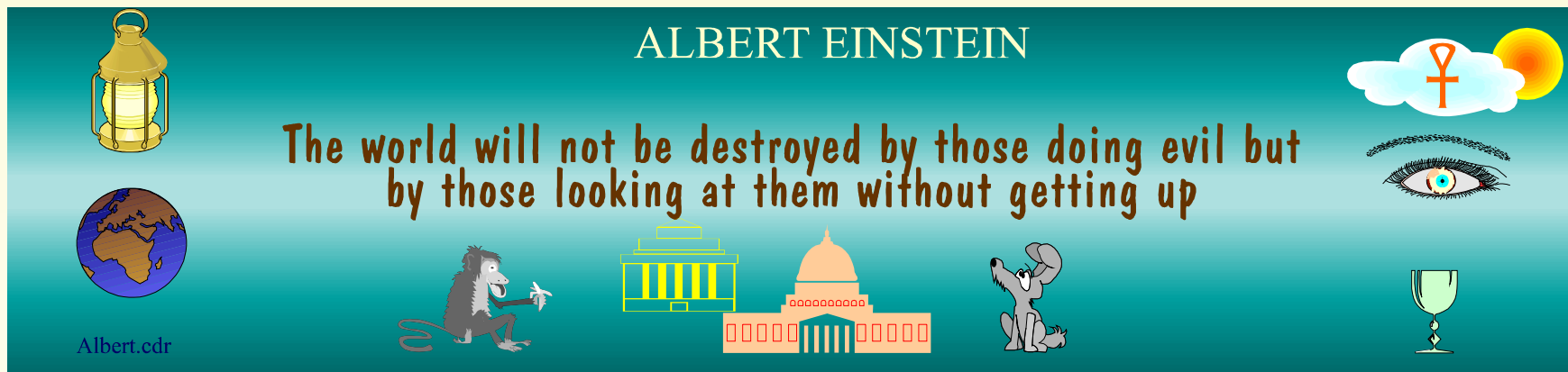


Despite the fertility of any given mind, all ideas can merge, that prove latter to be good or bad.

As regard technical purposes, the ones related to patents, the crucial field of **Ethics** is concerned.

Should the fruits of all ideas be patentable ?

A strong message about lucidity



Consider Applied Ethics & Decision Making

Applied Ethics is all about making apt decisions and fathoming about moral rights in real life.

Definition : Philosophical examination, from a moral standpoint, of specific issues in private and public life that are matters of **moral judgment**.



Bioethics is concerned with identifying the correct approach to matters such as euthanasia, or the allocation of scarce health resources, or the use of human embryos in research.

Environmental ethics is concerned with questions such as the duties of humans towards landscapes or species.

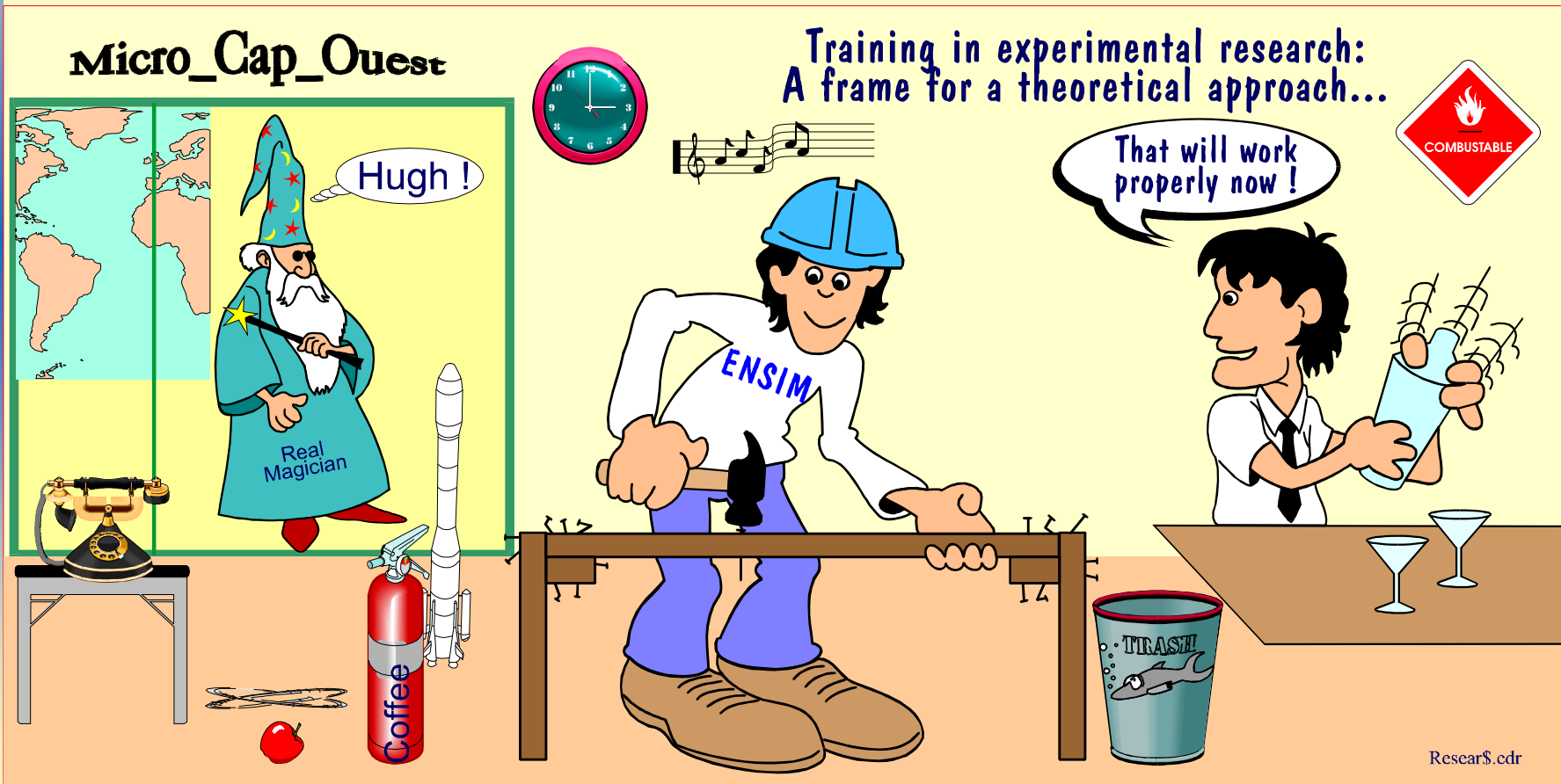
Business ethics concerns questions such as the limits on managers in the pursuit of profit,

Comment... or the duty of 'whistleblowers' to the general public as opposed to their employers.

Applied Ethics in R&D

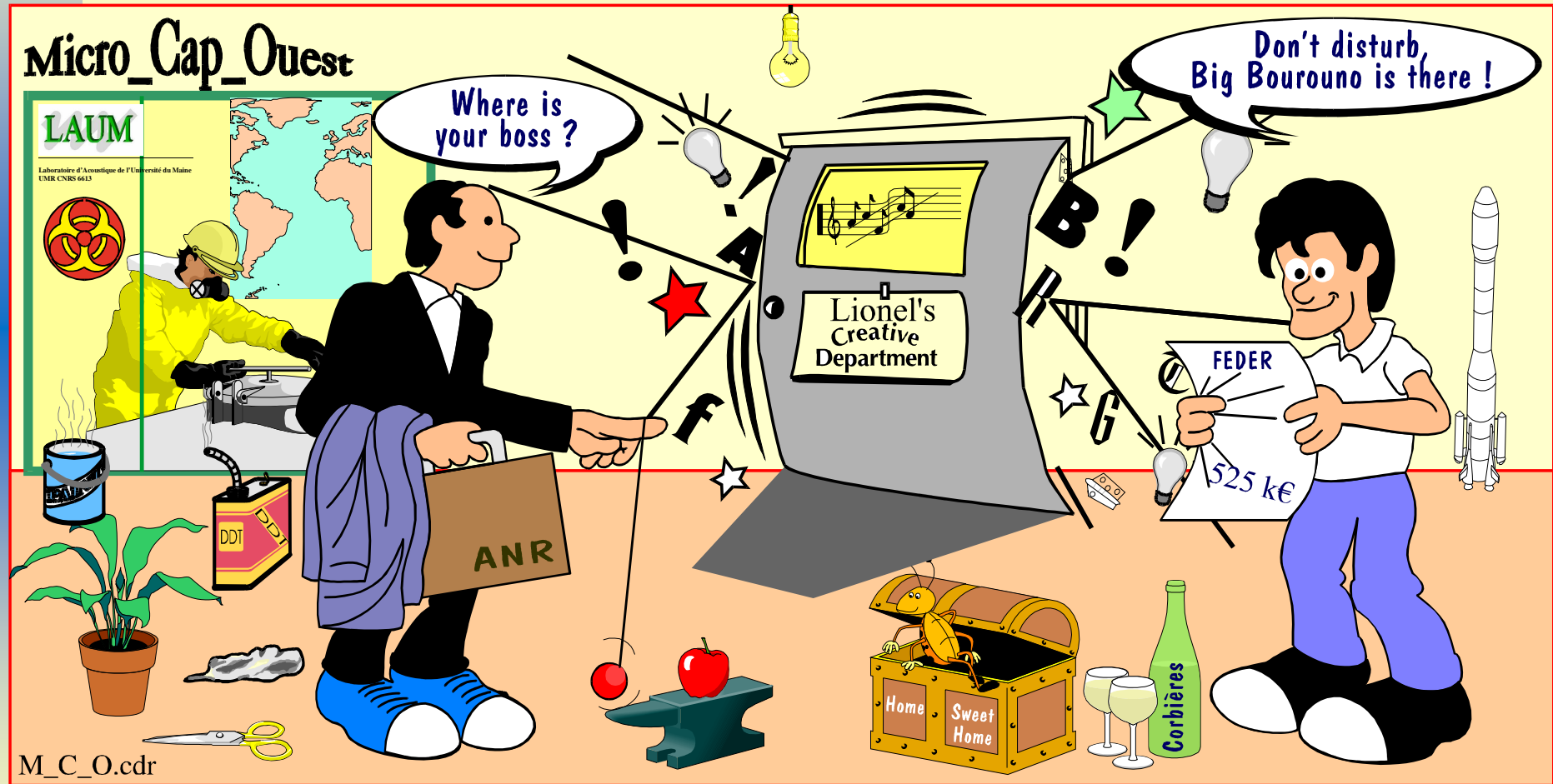
Research ethics goes with the application of fundamental ethical principles to topics involving scientific research.

These include the implementation of research involving **human and animal experimentation**, and **academic scandal** (scientific misconduct (such as fraud, fabrication of data and plagiarism)...





Good scheme ? As a source of many technological realisations, Research may be sometime quite fun... ,



M_C_O.cdr



...Sometime Academic Research prooves to become a quite tricky business...

This scientist seems fed-up... Would his gun be too heavy ?



Then, you can search and, happen to find... but...



Alas, hijacked inventions are common cases

A personal story

In 1994, before reading IP law, I was commissioned (free of charge) by the president of a firm to develop a **thermoelectric generator** working with a **storm lantern**. Without any contract but only trust, he ordered five prototypes.

I devised and fabricated a first prototypes in the lab, and fortunately kept it while delivering the agreed other pieces.

Then, no news or anything were given to me...

*Thermogenerator
6V, 0,25A...*



A first design...

Hijacked inventions are common cases

Then, as an fraudulent inventor, less than ten years later, the good Director was awarded with the Altran Foundation for innovation prize... No further comment...

It proved to be lesson I had to take advantage of ☺

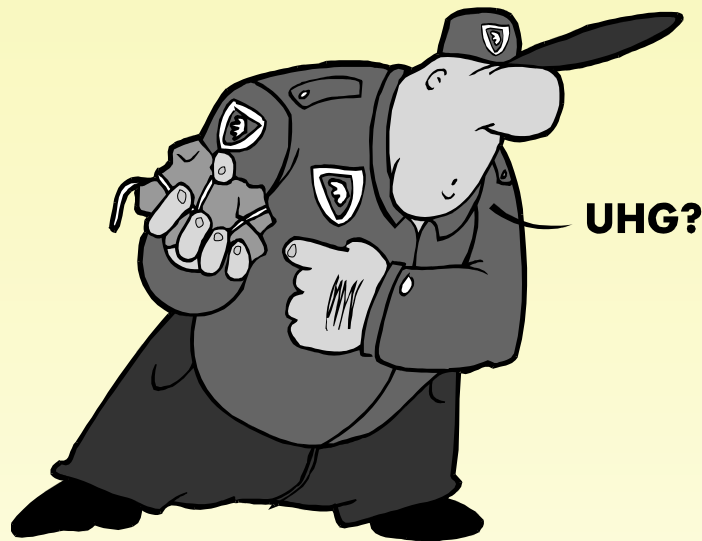
Commercialised ThermoElectrics devices... *Lufo3W*

A serious breach of moral rights ? (that to be named)



*As a legal device, in terms of proof and datation,
a simple enveloppe Soleau would have been most effective...*

Anyway... **Don't be paranoid : just be aware !**



*I'm afraid that this
scroodge is an
undesirable person...*

Crooks are quite common stuff, but they tell us a way to understand a powerful mainstay of applied ethics :

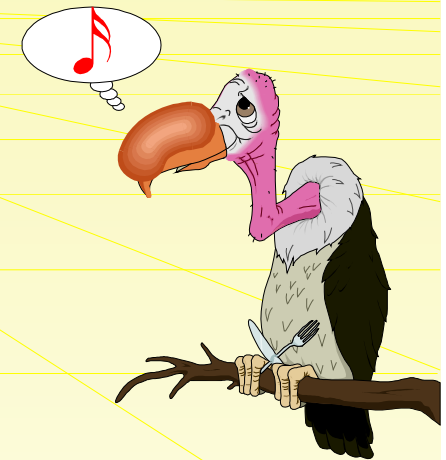
Lucidity is a major duty of ethics

...as the duty to notify to prevent evil...

As technological watch is a sharp reality,
in the good bad scheme model,



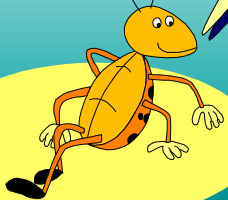
My name is Maximus...



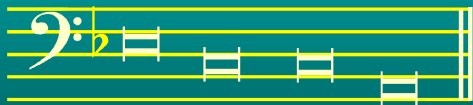
*The engineer or scientist
must learn to keep secrets...*

Talk is sterling, apt silence is golden...

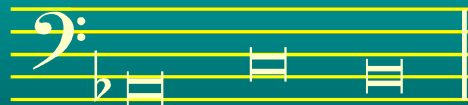
*Highlighted
Silences...*



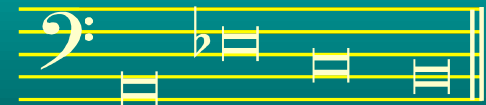
No.1



No.2



No.3



Sphinxes

R. Schumann, Carnival, Opus 9

Apt Symbols before adequate silences



Sphinxes.cdr



Conversely, applied ethics requires the **duty to notify** especially about technological issues



Would any engineer or scientist agree with such a wonderful world ?

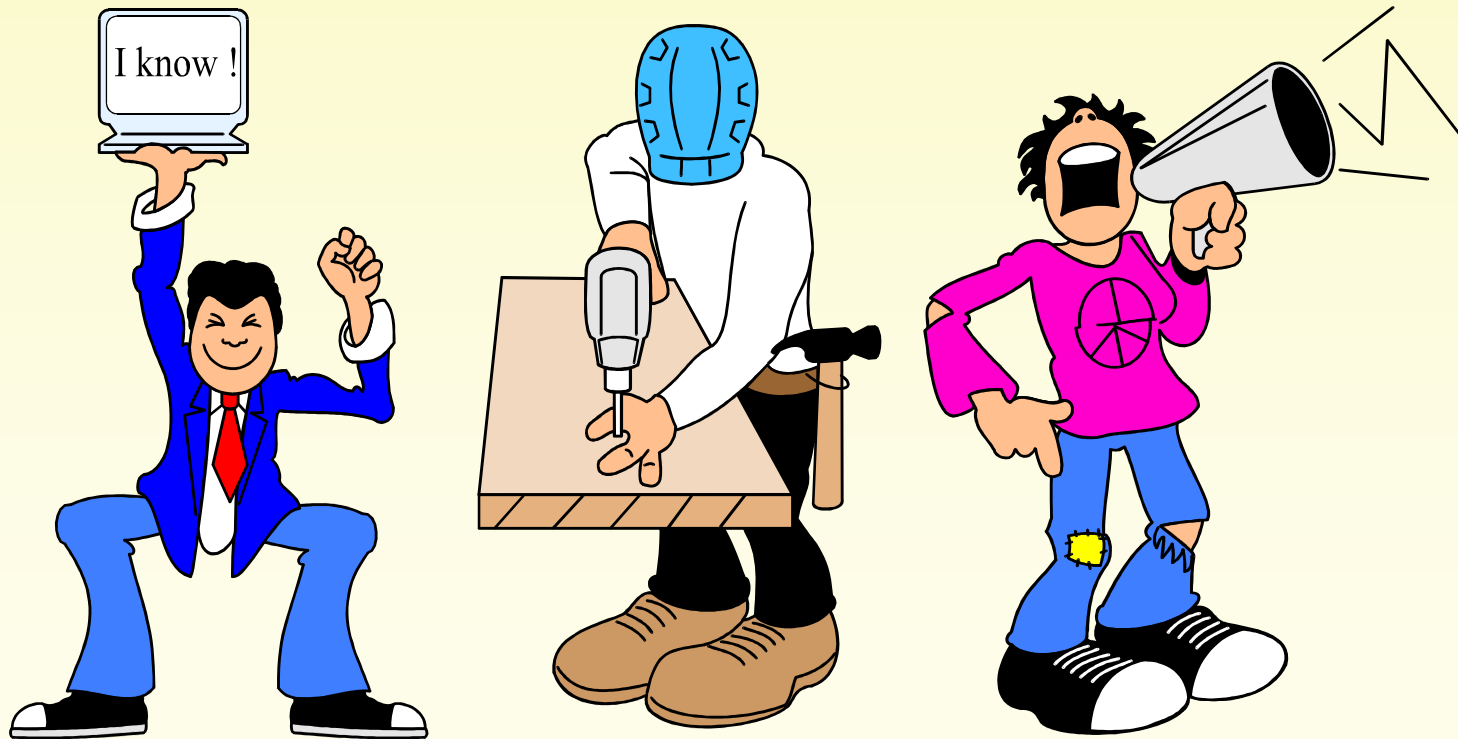
In R&D, three major entities interact as:
[Man / Institution / General Public]

Three ethical ways for scientists and engineers practice
How to manage with 3 qualities,

Knowledge

Know-how

Make-it know (notify)

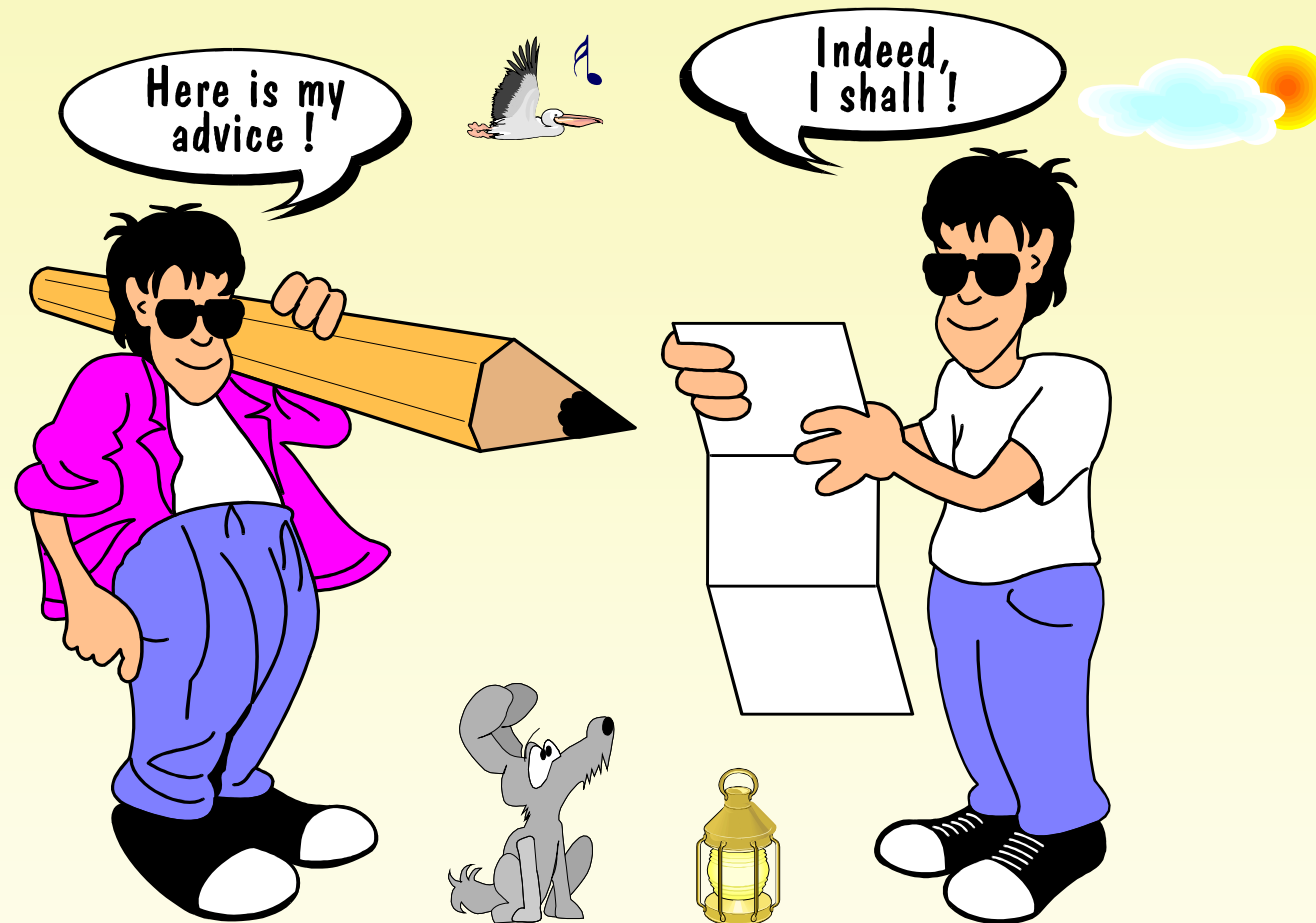


Then, what with ethical behavior ?

*As Spirituality Sciences have to discard dogma and foster lucidity,
Ethics is not a substitute for religion,
Ethics is to do with everything that surrounds us,
As human beings, we live in a society...*



For engineers or scientists, substantial help is given within relevant codes of ethics



Let's consider the IEEE Code of Ethics

Preamble of the IEEE code of ethics (IEEE Policy 7.8)

The Institute of Electricity, Electronics & Engineering

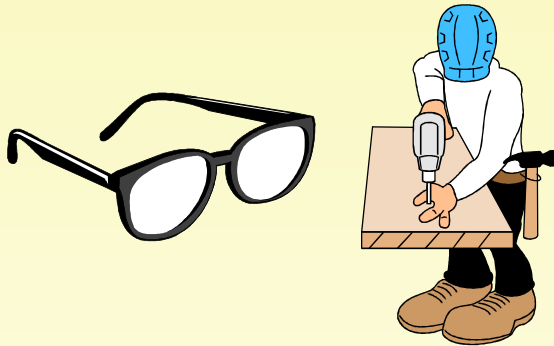
We, the members of the IEEE, in recognition of the importance of our **technologies** in affecting the **quality of life** throughout the world, and in accepting a **personal obligation** to our profession, its members and the communities we serve, do hereby commit ourselves to the **highest ethical and professional conduct** and agree :



The IEEE code of ethics (IEEE Policy 7.8)

As R&D actors, members agree with 10 clauses:

1] to accept responsibility in **making decisions** consistent with the **safety, health and welfare of the public**, and to **disclose** promptly factors that might endanger the public or the environment;



Here, lucidity, know-how and duty of notification are concerned...



2] to avoid real or perceived **conflicts of interest** whenever possible, and to **disclose** them to affected parties when they do exist;

Prevention is better than cure...



Here, lucidity again and duty of notification are concerned...



The IEEE code of ethics (IEEE Policy 7.8)

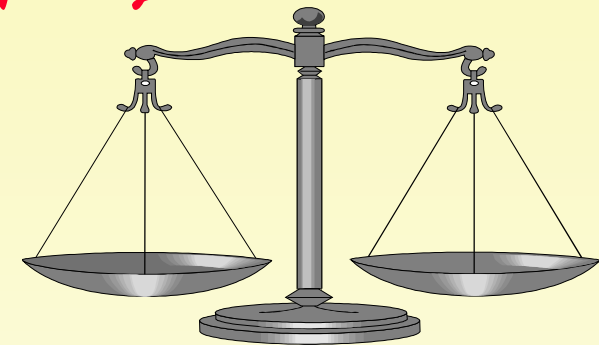
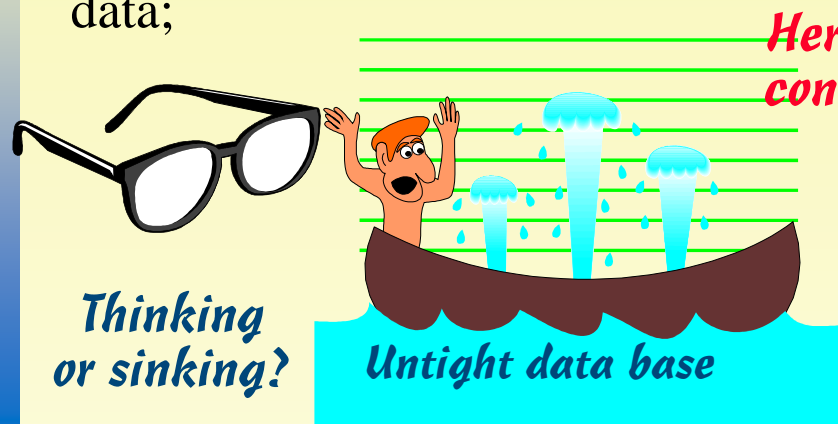
The duty of notification isn't an easy task and requires a relevant open-mindedness... a problem with sorting priorities...



The IEEE code of ethics (IEEE Policy 7.8)

IEEE members agree:

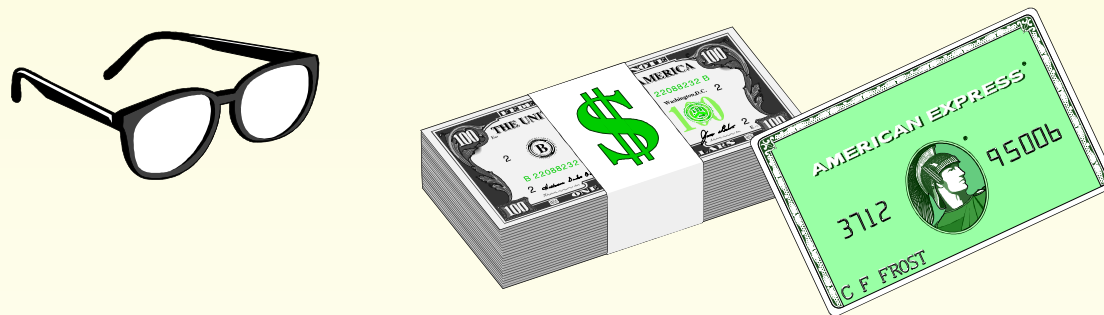
3] to be honest and realistic in **stating claims** or estimates based on available data;



Weighted decisions

4] to **reject bribery** in all its forms;

Here real integrity is concerned...



The IEEE code of ethics (IEEE Policy 7.8)

IEEE members agree:

5] to improve the **understanding of technology**, its appropriate application, and potential consequences;



Here, knowledge and lucidity are concerned...

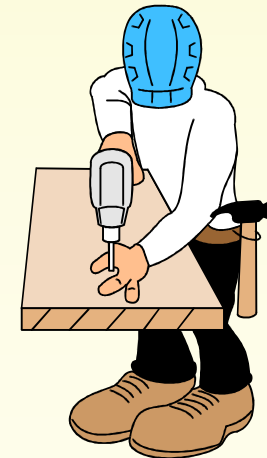


6] to **maintain and improve their technical competence** and to undertake technological tasks for others only if **qualified by training** or experience, or after full disclosure of pertinent limitations;



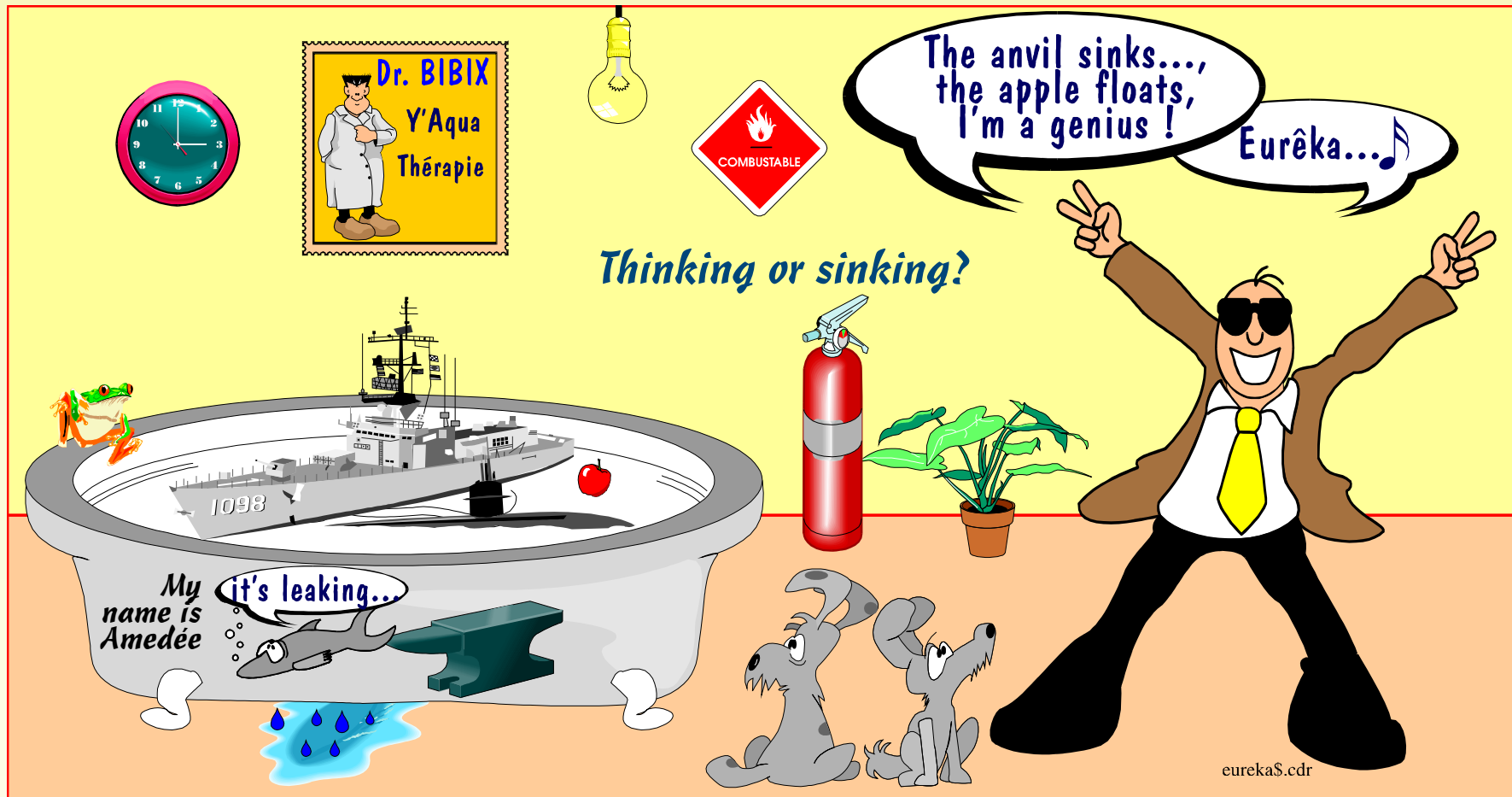
Here, both knowledge and know-how are concerned...

Lucidity for one's limitations...



The IEEE code of ethics (IEEE Policy 7.8)

Agreeing to maintain technical competence ?...



This famous engineer, (His name is Archimix) has forgotten many a principle whose modesty...

The IEEE code of ethics (IEEE Policy 7.8)

IEEE members agree:

7] to seek, accept, and offer **honest criticism of technical work**, to **acknowledge and correct errors**, and to **credit properly the contributions** of others;



Here, lucidity & open mindedness are concerned...

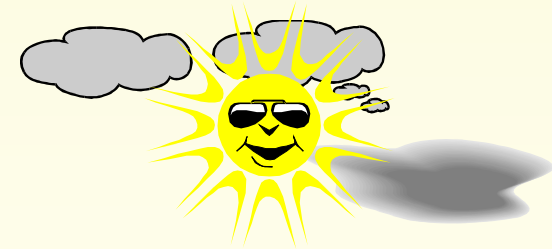
...unlighted scientist...



8] to **treat fairly all persons** regardless of such factors as race, religion, gender, disability, age, or national origin;



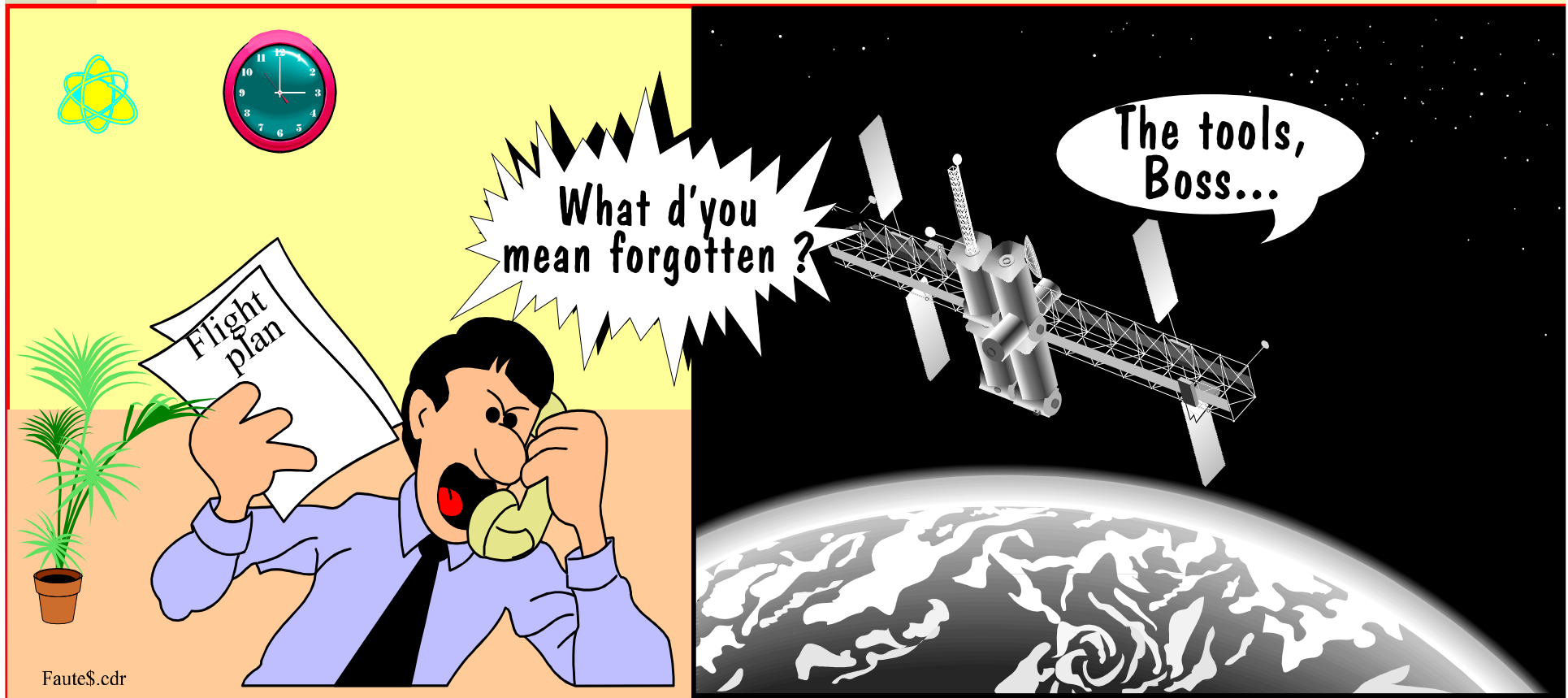
Here, a simple understanding of the basis of human rights is required...



*7th code
provision*

The IEEE code of ethics (IEEE Policy 7.8)

IEEE members agree to acknowledge and correct errors



*I'm afraid, That's big trouble for
such a flying staff...*

So sorry!

Empathy...

The IEEE code of ethics (IEEE Policy 7.8)

IEEE members agree:

9] to **avoid injuring others**, their property, reputation, or employment by false or **malicious action**;



Here, jealousy is often concerned... in the scientists's realm...



10] to **assist colleagues and co-workers** in their professional development and to support them in following this code of ethics.

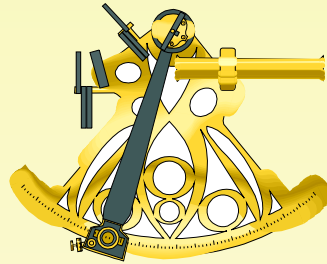
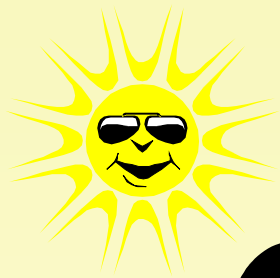


Here, open mindedness, respect, and human kindness are concerned...



So, what could be best way to assist others ?

A quest as that of the Hooly Graal : Finding a path to foster creativity



*Did you see that in any field,
Creation calls Creation ?*

*The more you create, the
more it becomes easy
And self-pleasing...*



7th code
provision

To Credit properly the moral rights is a most welcome way to Foster creativity



Before treatment

Better being envied than pitied...

After treatment

But what are the specificities of moral rights ?

By the law itself (*ipso jure*) and as customary law, **any creator is entitled with moral rights** about his piece of work, as far as it is a work of authorship.

Are concerned: Works of art such as:

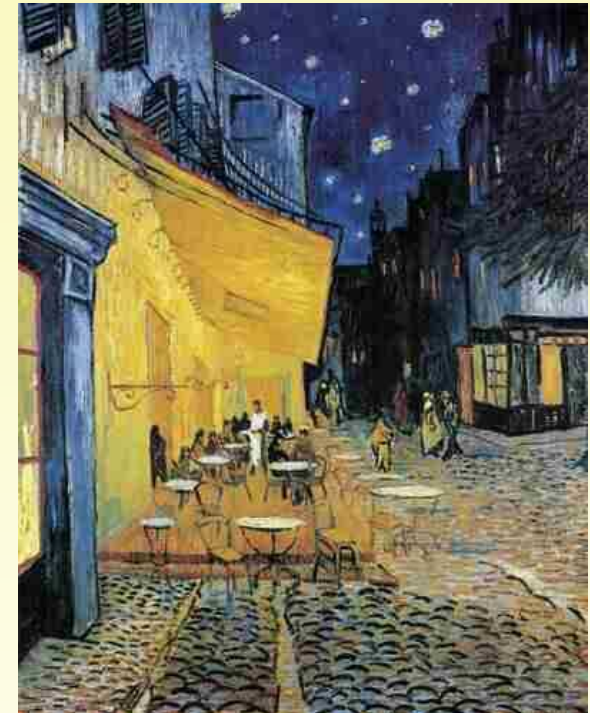
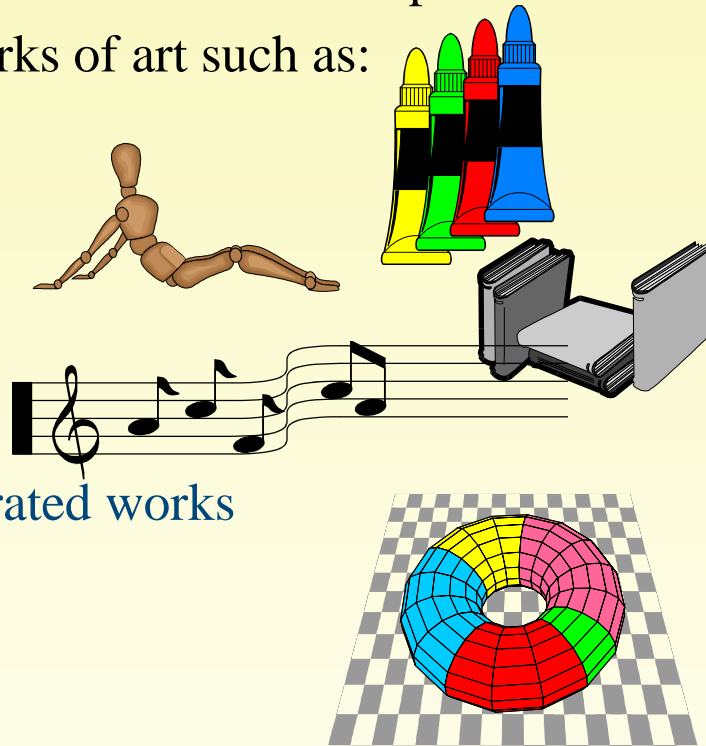
Paintings

Visual works

Literary works

Pieces of music

Computer-generated works



Terrasse du café le soir

*Vincent Van Gogh
(1853-1890)*

Computer programs are a very special case with highly reduced moral rights...

The three specificities of moral rights

*Moral rights are perpetual
(perenity of the piece of work)*

Droit perpétuel



~~Distrainee~~



~~Seizure~~

*Moral rights are inalienable
(not assignable)*

Droit inaliénable



*Moral rights are untransferable
(not negotiable)*

Droit incessible

The nature of the four fundamental moral rights

1] Right of disclosure: for all kinds of IPs, all countries. The first disclosure of the piece of work is the privilege of its creator, despite any contractual settlement...

2] Right to be named: The name of the creator must then clearly be associated with his piece of work. This right is systematic in France, but depends on the employment contract in UK and USA (copyright law...).

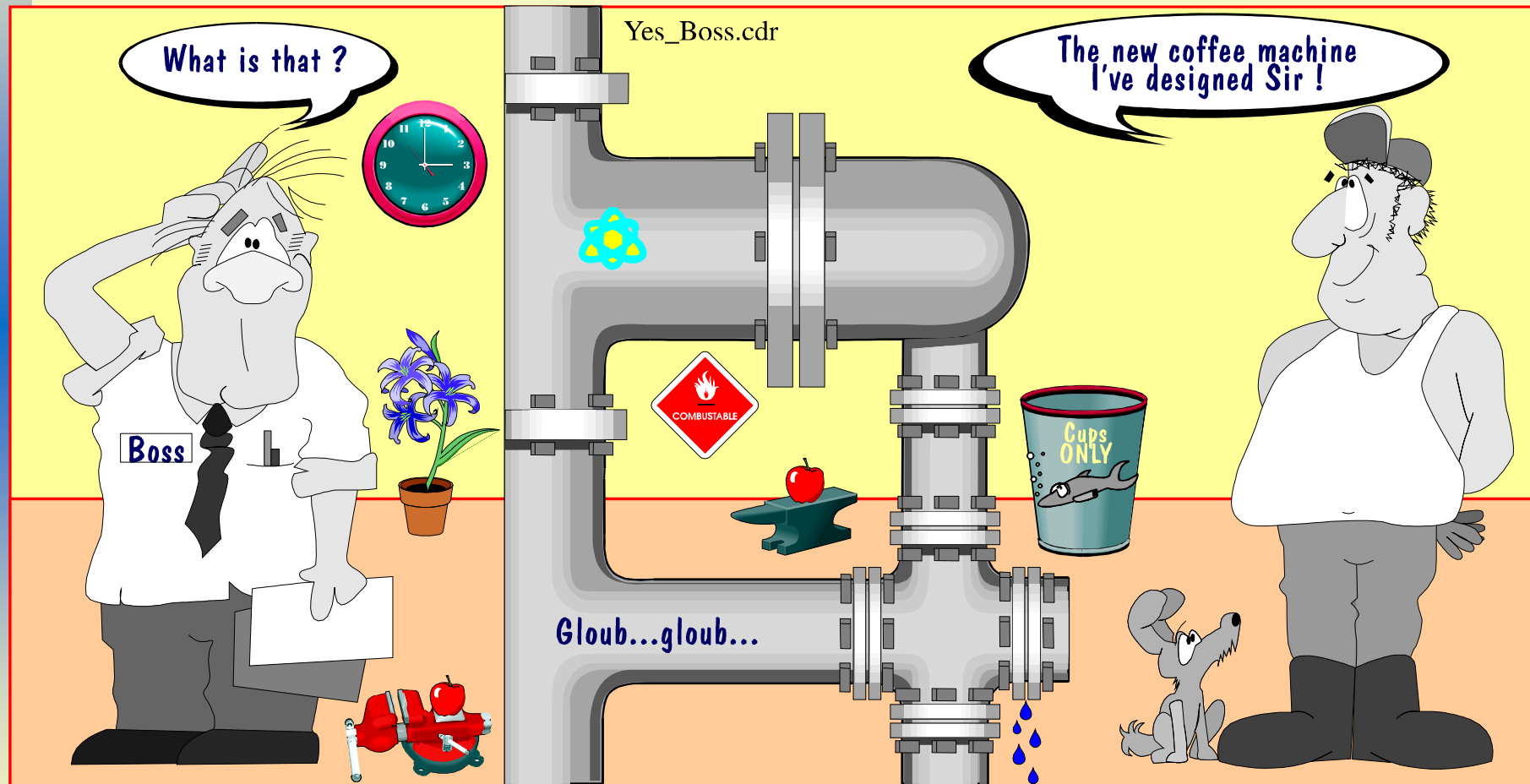
3] Right of respect of the piece of work: No alteration should be made without the full agreement of the author. This right is systematic in France, but depends on the employment contract in UK and USA...

4] Right of withdrawal: The author can claim back his work. This right depends on the contract with the client or commissioner. Then a pecuniary compensation is mandatory.

Droits de divulgation , au nom, respect de l'œuvre, repentir

The moral Right of disclosure (1/4)

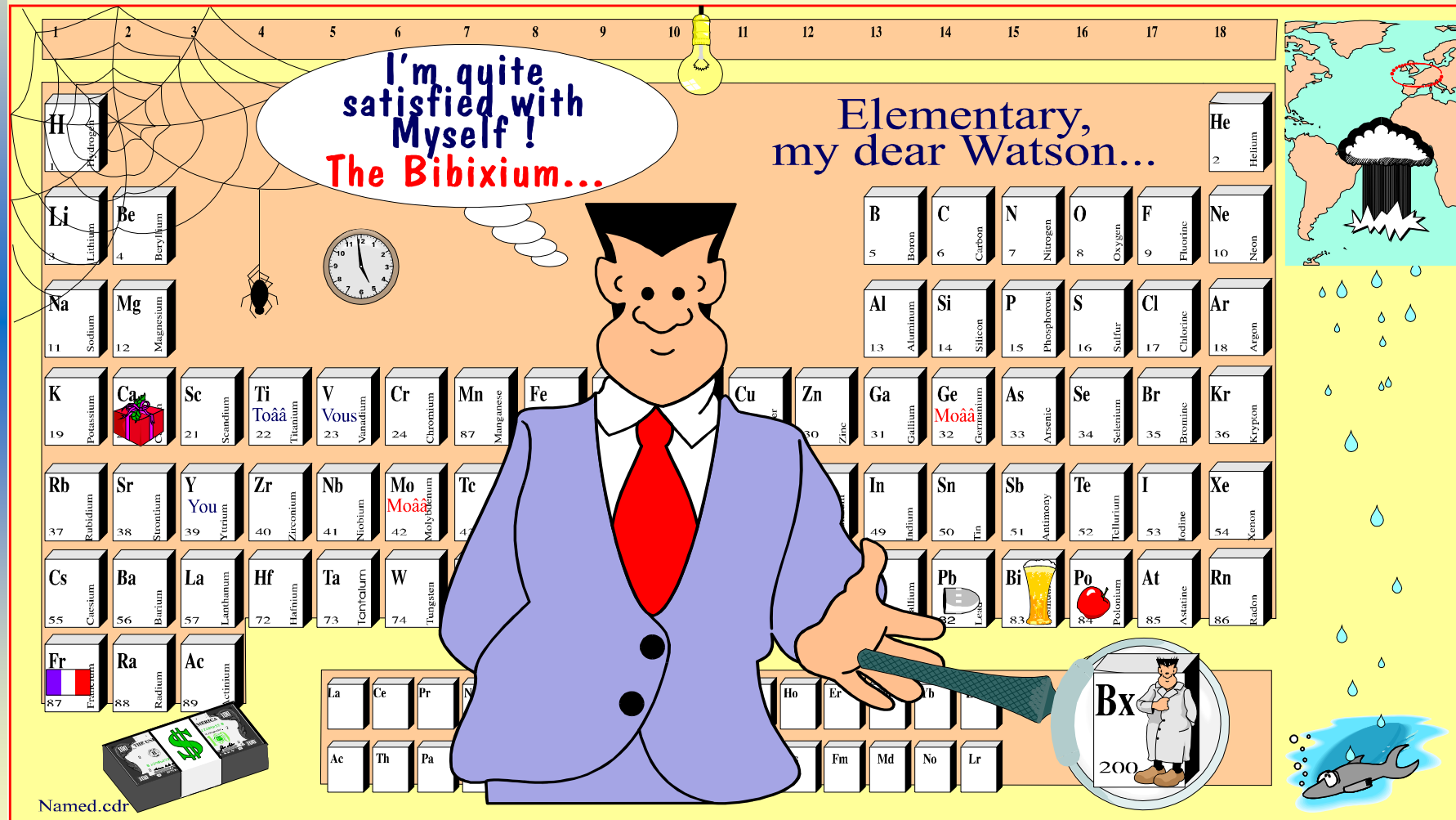
Most often this right is considered with items depending on copyright law...
But as a fact, everything is possible.



The moral Right to be named (2/4)

* FR CPI L-611-9, CBE Art. 62

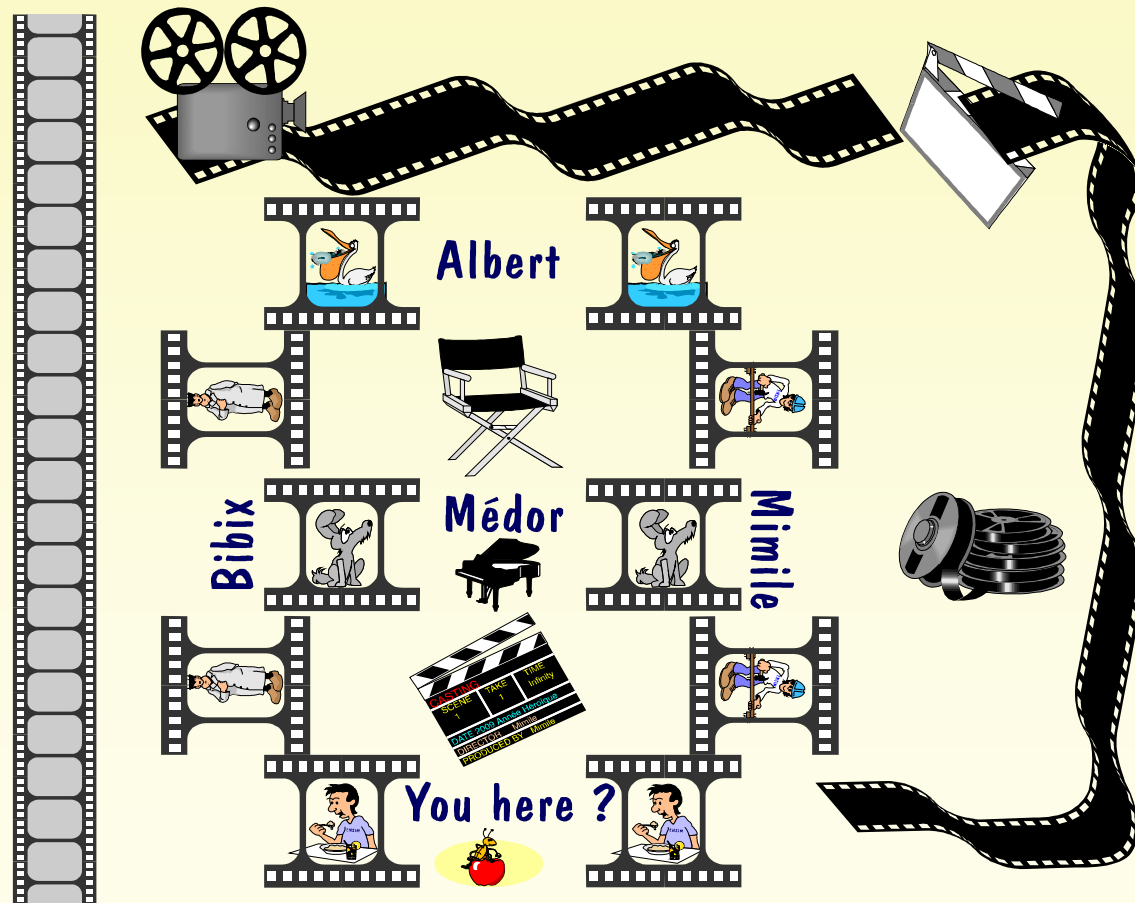
Systematic with **patent** law*. For **copyright** it depends on the employment contract and is seldom complied with for the **design rights** of commissioned pieces...



The moral Right of respect of the piece of work (3/4)

Whatever its nature, the piece of work should be respected...

With employees creations, the assignees of **softwares** never comply by this rule.
That's one of the major drawbacks of including software within copyright law.



The moral Right of withdrawal (4/4)

Most common with painting & visual works (whose sculpture), the client or commissioner owns only the material support, not the incorporeal art.

In many law cases this moral right is combined with the pecuniary "droit de suite" or **right of pursuit**.

...Withdrawal...

I told you he would never believe us!



...Pursuit...

Not really the same meaning 😊

Ethics and moral issues

Ethics are closely related to **moral**. Moral reflection is a substantial part of our lives. Considering what is good or bad helps us be better people.

We live in a society... There are always **issues worth of a discussion** about them being good or bad for us.

This can be considered in any society...



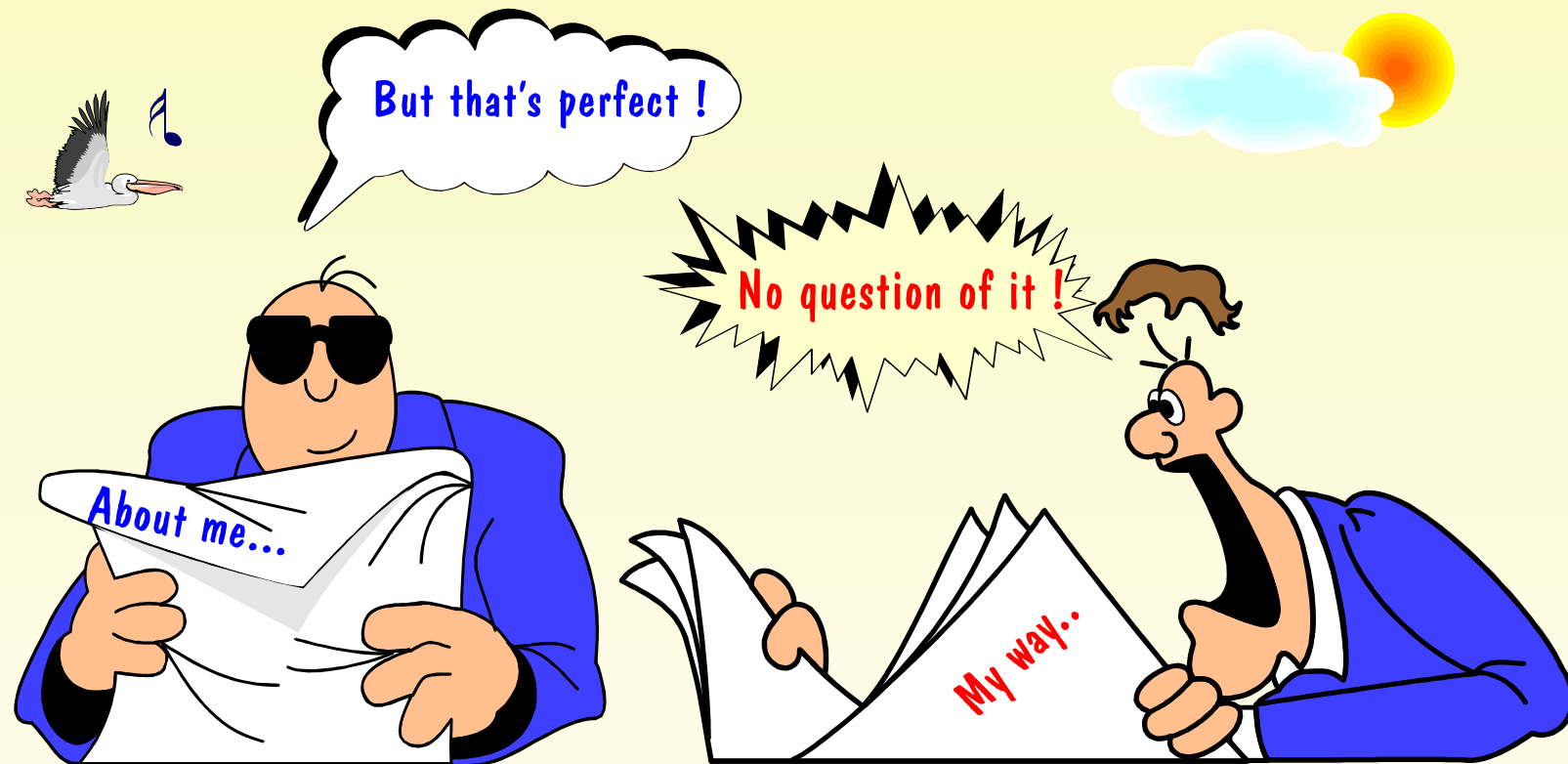
*Here is a society for the comic strip characters,
with Mafalda (Quino ; Joaquín Salvador Lavado, 1932)*



*Here is a place for us...
And about discussion...*

We don't have all the same ideas nor judgment,

...and appropriate **decision making** is an art based on good judgment and experience...



Then, applied Ethics consider three kinds of moral judgments...

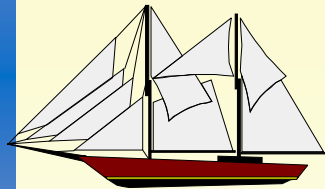
Moral judgment: factual judgment (1/3)

Based on one or several facts, such a judgment is not consistently objective, as the environment may alter both our perception and interpretation.

A simple example:

As mentionned above, the Earth is round...

Take my word, it's like this!



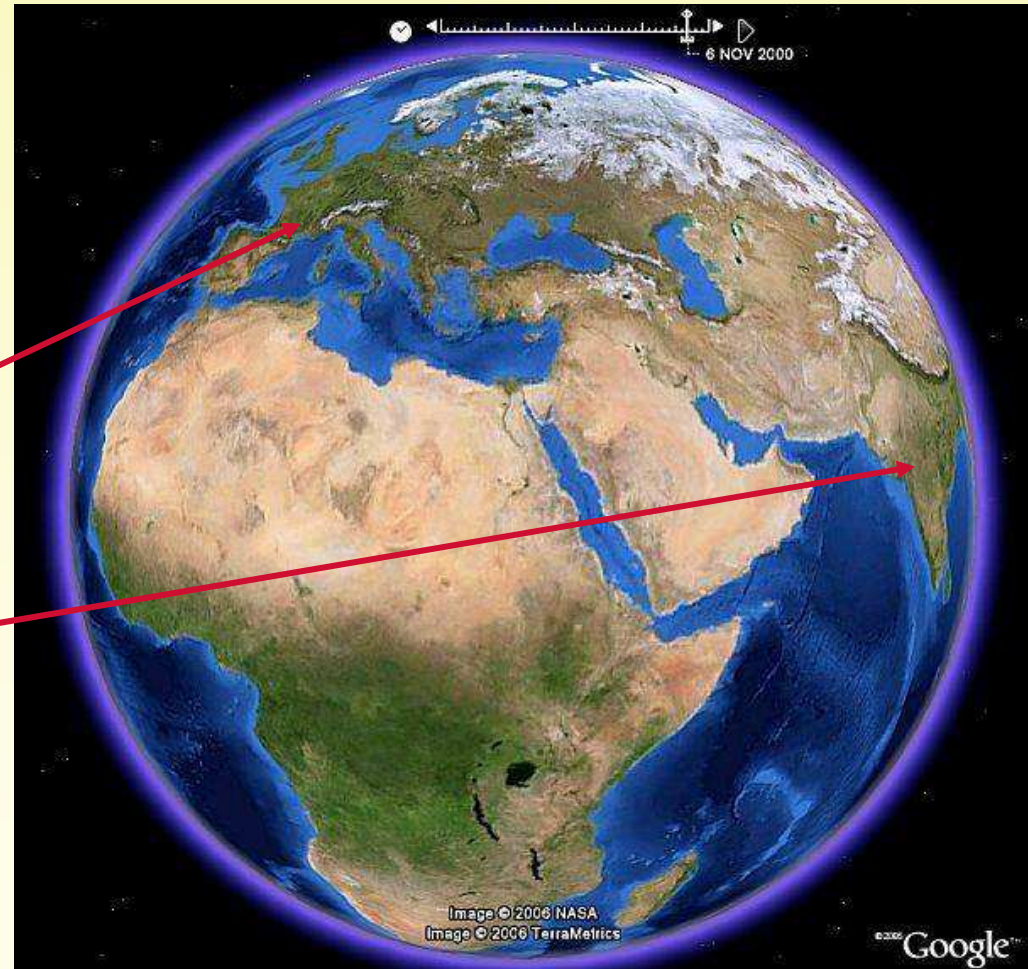
You are here

Sailing Westward...

You want to go there

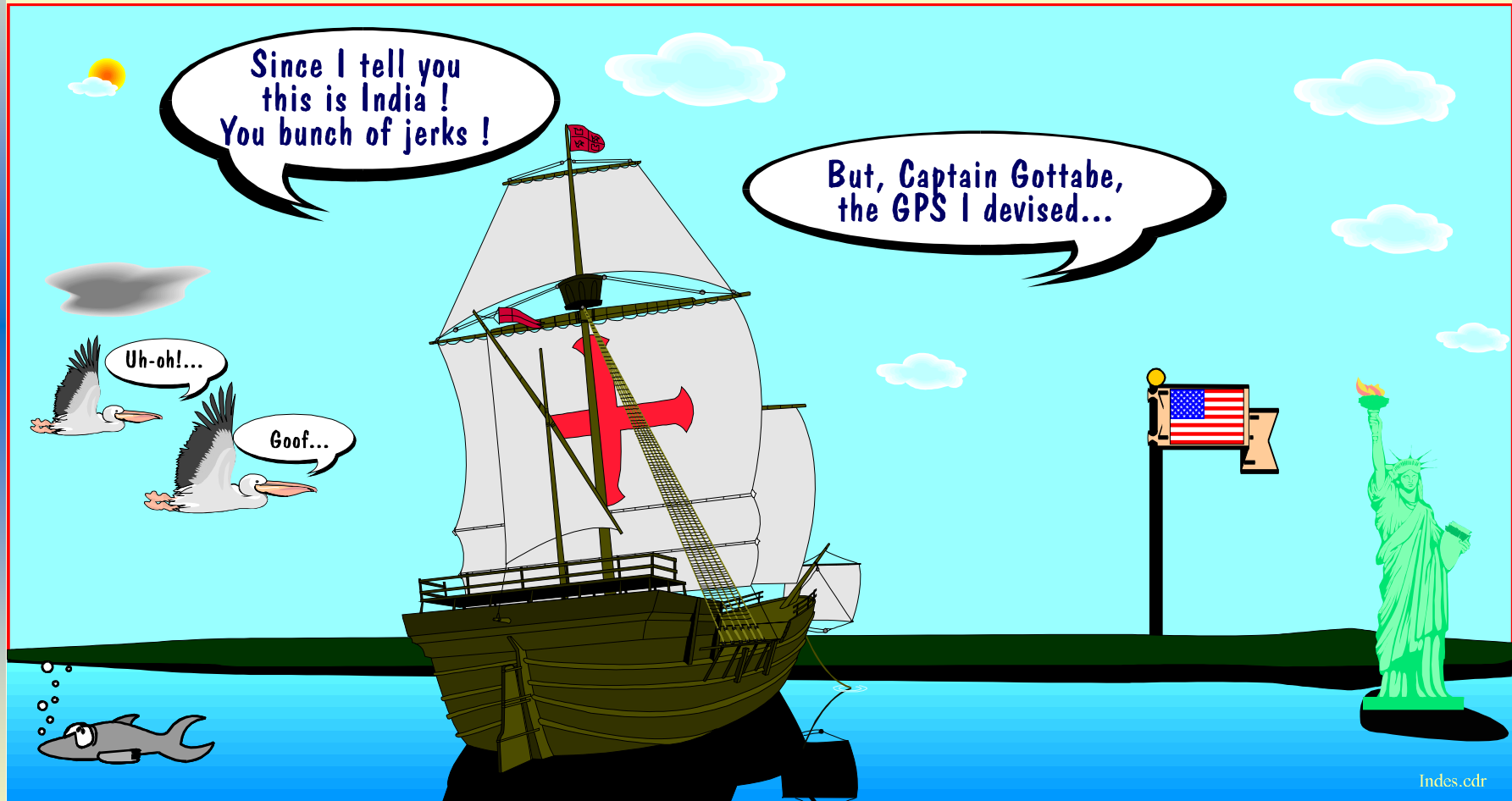
...A passage to India...

Then our captain goes west...



Moral judgment: **factual judgment**

...He just manages to get you here (did you see back the earth ?)
I didn't gave my word about the other side...



Moral judgment: Ethical value judgements (2/3)

Value judgements are **essentially subjective** as resulting from our feeling. Then Ethical value judgments are intrinsically arational, and their consistency is above all depending on the **lucidity** of the observer.

...I think that is beautiful, you think that's ugly, she...

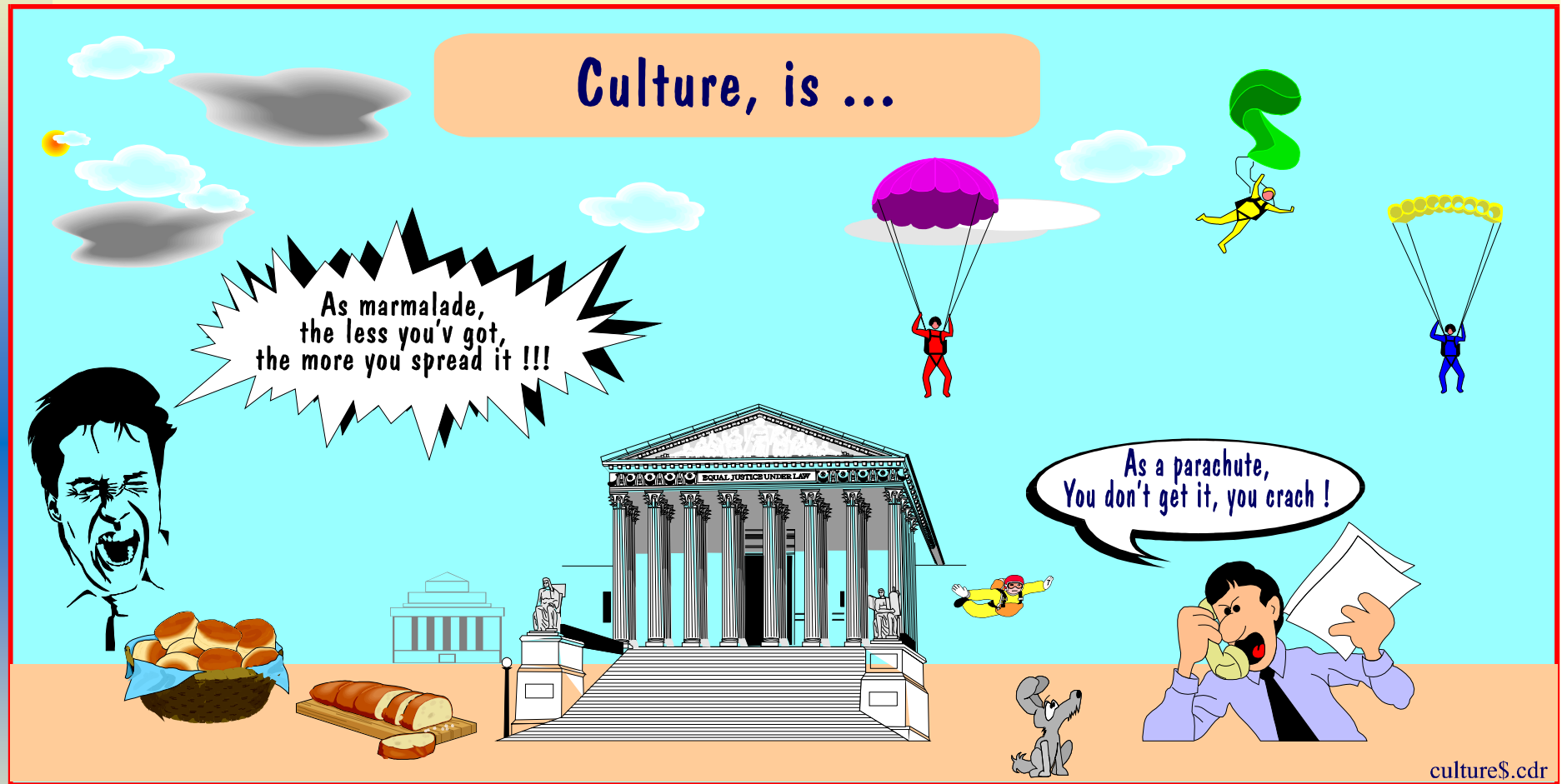
Why argue on matters of *tastes and colours*? And yet, day after day... as said F. Nietzsche...

Philosophers as Wittgenstein (Ludwig Joseph 1889-1951) claim that Ethical Value Judgments are **Nonsense**..., while many an **artist** see them as **All about understanding aesthetic judgments**...

Consider a simple example:

As the question **what is the nature of culture ?...**

...Value judgements...



Consider a second example:
As regards what goes with Global Progress...

...one can't make omelets without breaking eggs...,
then global growth requires sacrifices...



Moral judgement: **normative judgements** (3/3)

Such judgements rely on normative guidelines stemming from **a given authority** legal or not, legitimate or not...

A wide palette of incitements can be considered:

Light: You **ought to** eat your meal...,

Stressed: You **should** tidy up your bedroom...,

Strong: You **must** comply !...

Normative judgements are often followed with a justifying injunction:

You ought to eat your soup... since Mummy made it specially for you...

you should tidy up your place... since Daddy will get home...

You must confess !... or thou shall visit Guantanamo...

Incitating tools involve advices, threats, up to blows, and no limit...

More than with value judgments, lucidity is required to analyse the well-entitlement, justification, and consequences of injunctions

Abiding or dissenting ? ...Dilemma...

Moral judgment: normative injunction... light

*Would you please consider to
eat your soup ?*



Since...



Moral judgment: normative injunction... stressed

*You should tidy up your place...
since Daddy will get home...*



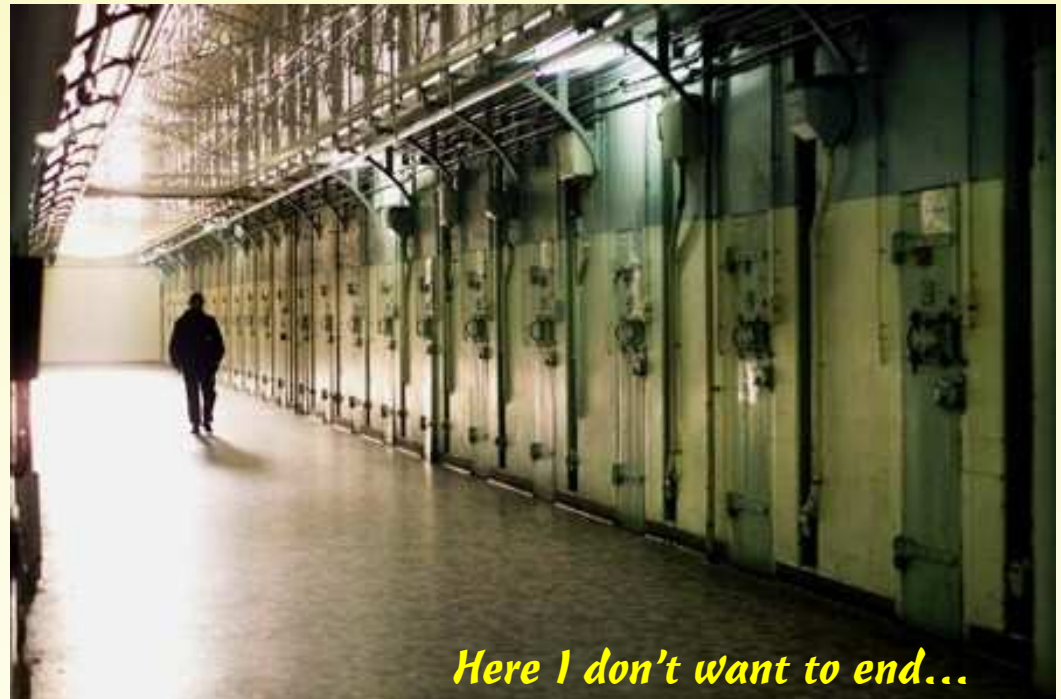
Heap of rubbish nearly registered within the 12 Hercule's works... Augias stables...

Moral judgment: normative injunction... strong



*You must
comply with
my will !*

*Or you will become a
happy guest in such a fine
place !*



Here I don't want to end...

Then Moral judgments yield Decisions making...

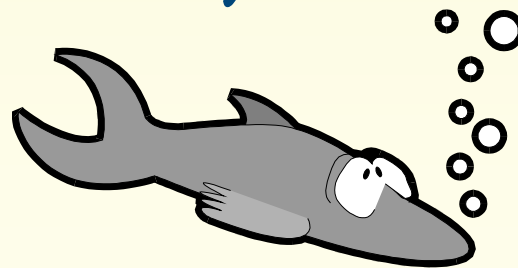
Decision making stems from Moral judgement

Among difficult moral judgements one can consider the two most complex situations such as:

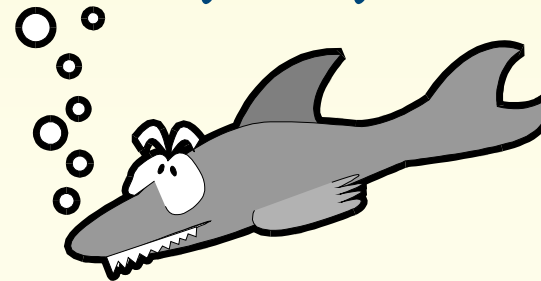
The **ethical dilemma** is a situation that will often involve a conflict between two moral imperatives, in which to obey one would result in transgressing another, through two involved parties. Giving right to one of both parties injures the other.

The **ethical paradox** is a still more critical case involving a sort of schizophrenic duality. For instance, the moral admonition to *love thy neighbour as thy self* is in contradiction to an armed neighbour trying to kill you: if he succeeds, you will not be able to love him. But to preemptively attack or restrain him cannot be usually understood as loving...

Getting bread today ?



Or getting teeth ?



Decision making and dilemma

For instance, as the ball of *little Atommyx* is entangled in electric lines..., his coach could let it lost but the boy would be so sorrow... or he could take a risk...

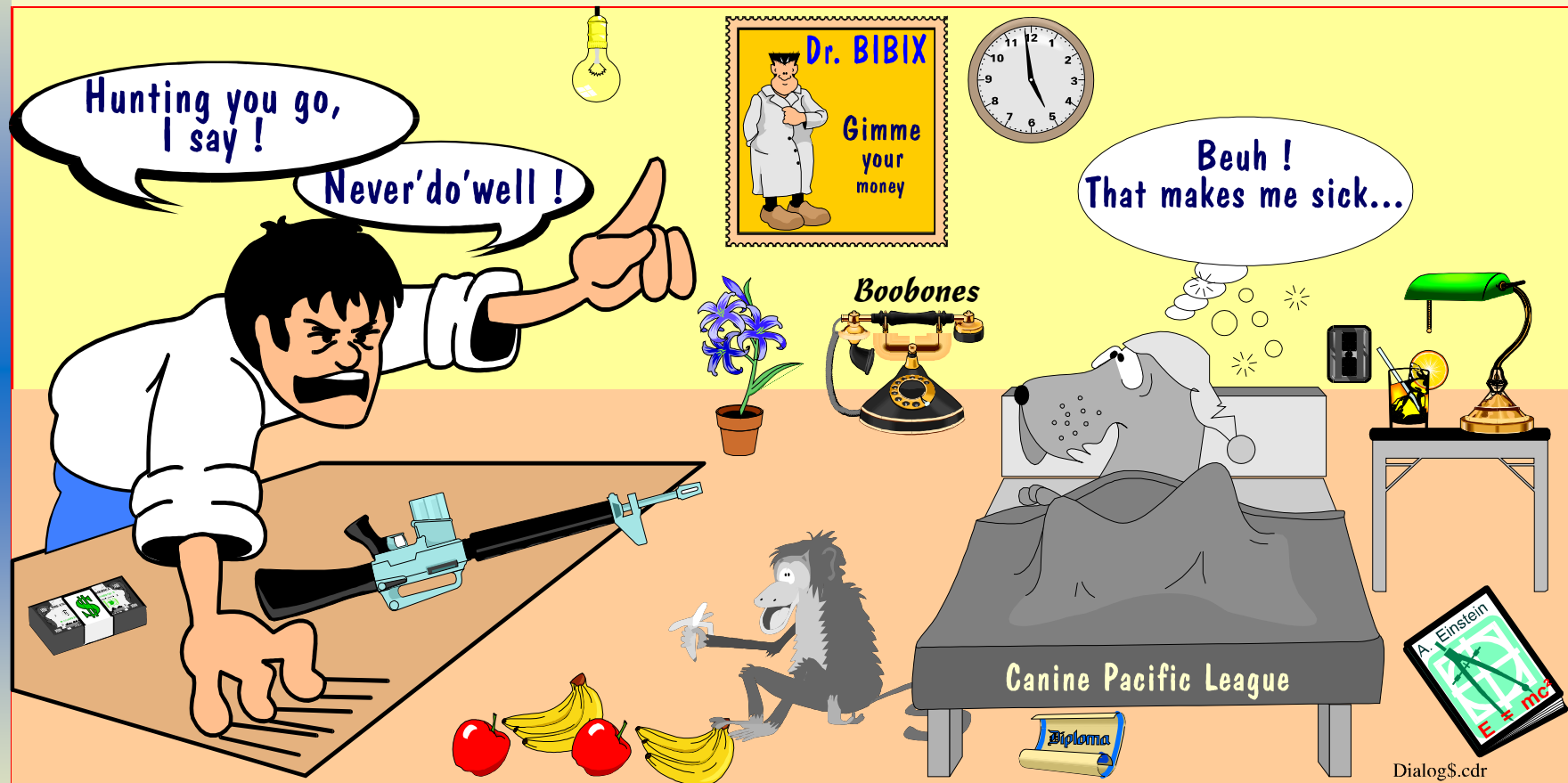


Here was an unfortunate decision... So sorry, coach...

Normative judgement: Dissidence as a ultimate decision

Abiding or dissenting ?

Dissidence yields ostracism or worse, in any given society...



Here is an unfortunate dissenting good-dog...

Moral judgement: Dissidence as a ultimate decision

As matters stand

Quite a lot of creators have been subjected to strong coercion...

As a paradox, they managed to survive even with more strong and meaningful pieces of works.



One can think about:

Ovide (Poet, 43av.J.-C 0018), **Galileo** (Physicist, 1564-1642), **B. Spinoza** (Philosopher, 1632-1677), **A. Soljenytsine** (Author, 1918-2008), **A. Sakharov** (Physicist, 1921-1989), **M.A. Estrella** (Pianist, 1937-), **M. Luther King** (Philosopher, 1929-1968), and so many more...

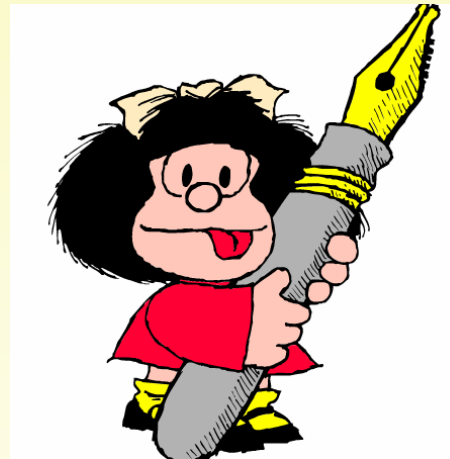
Such proofs of human fortitude allow us to understand a wider meaning into said sentence :

*As fruits of creativity,
Ideas, as dreams, are freerange*

As a Conclusion

The ultimate goal of ethics and moral is to help us be **Free thinkers & creators**, to allow us to speak our minds but without forgetting that there are other people who might feel offended by what we could say.

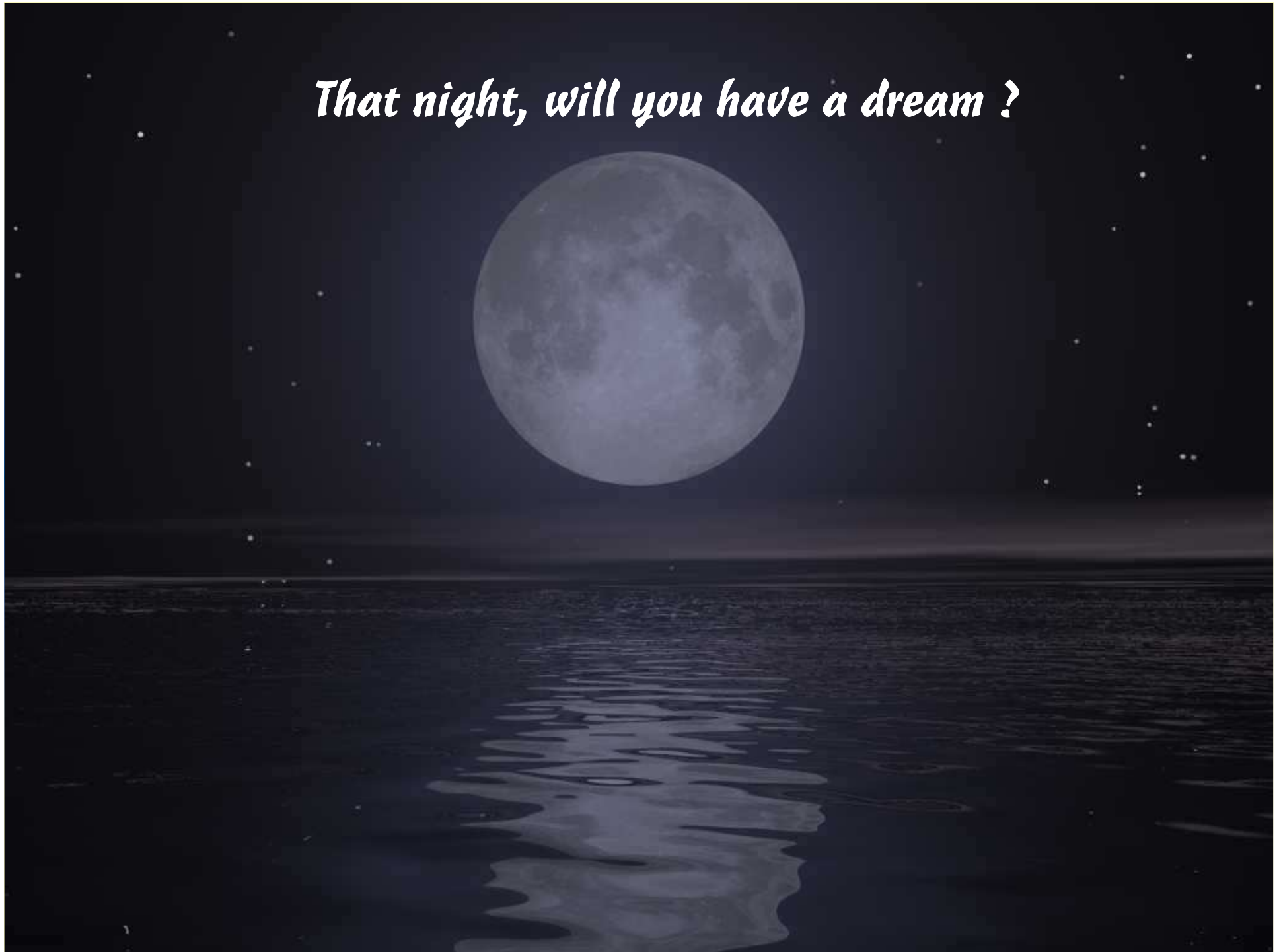
Respect to others' thoughts and believes is a crucial part if we want to live within a sustainable society.



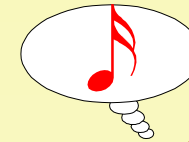
Hence, a frame of free thinking, even under coercion, is the most welcome cradle for what we name Creativity

Then,... dear listener...

That night, will you have a dream ?



If so, Feel free to tell him ☺



*Good Ol'Maximus is
watching you...*



Thank you for your kind attention
Oculatus Abis...

Contents -session Ethics-

Author-vating through Human Creation : Moral rights

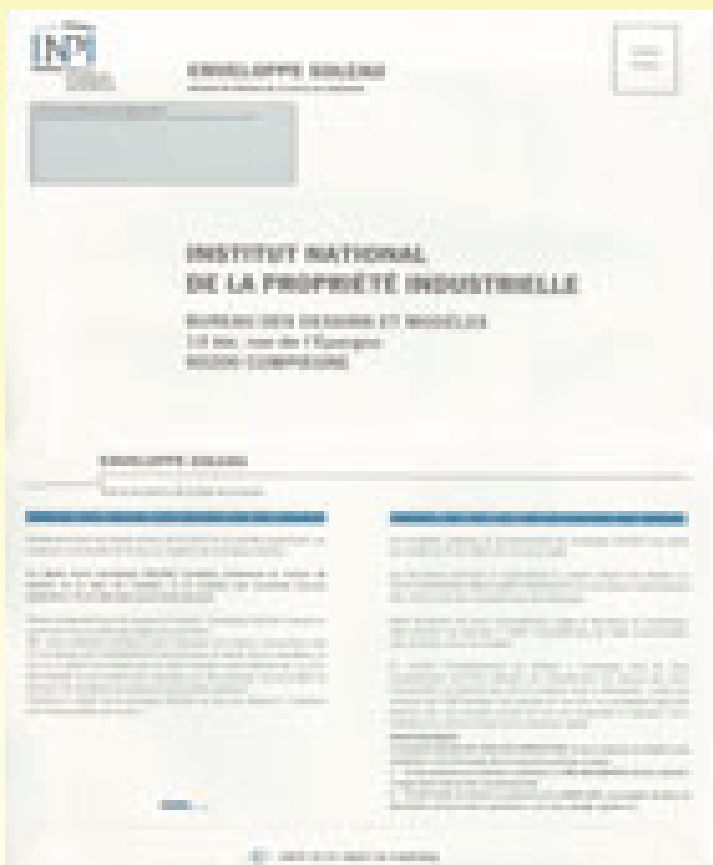
*That night, Who had a dream ?...
An origin of dreams and ideas,
Ideas are free-but-uneasy range,
A season for Ideas to bloom
Great expectations about good ideas
The throes of human creation
Nightmares against dreams
Ethics as a railing to deter bad schemes
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*The IEEE code of ethics
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4 moral rights
Judgement & decision making
3 kinds of moral jugements
-Factual judgement
-Ethical value judgement
-Normative judgement
Dilemma & paradox
Dissidence as a ultimate decision*

A conclusion about human Creativity

Annex: Proof & datation

Proof & datation formalised into a legal document is the most deterring tool against predators...



Annex with Albert...

"Equations are more important to me, because politics is for the present, but an equation is something for eternity."

"Great spirits have always found violent opposition from mediocrities. The latter cannot understand it when a man does not thoughtlessly submit to hereditary prejudices but honestly and courageously uses his intelligence."

"...one of the strongest motives that lead men to art and science is escape from everyday life with its painful crudity and hopeless dreariness, from the fetters of one's own ever-shifting desires. A finely tempered nature longs to escape from the personal life into the world of objective perception and thought."

"The important thing is not to stop questioning. Curiosity has its own reason for existing."

"Technological progress is like an axe in the hands of a pathological criminal."

"The secret to creativity is knowing how to hide your sources."

"Science is a wonderful thing if one does not have to earn one's living at it."

"The only real valuable thing is intuition."

"Imagination is more important than knowledge."

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F] Harrap's Dictionary of Law & Society, Harrap's reference, Harrap Books Ltd, © 1989.

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Would you think about laughing ?...

