

Lins de Vasconcelos
Advogados Associados

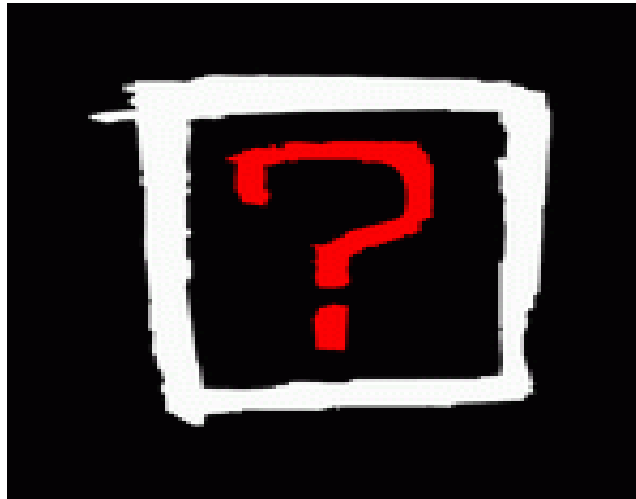
MEDIA AND INTELLECTUAL PROPERTY IN THE CONVERGENCE ERA

AFTER ALL, WHAT DOES
THE INDUSTRY WANT?



Cláudio Lins de Vasconcelos , *JSD, LL.M.*
WIPO Interregional Meeting on South-South Cooperation on IP – BSB, Aug. 10, 2012

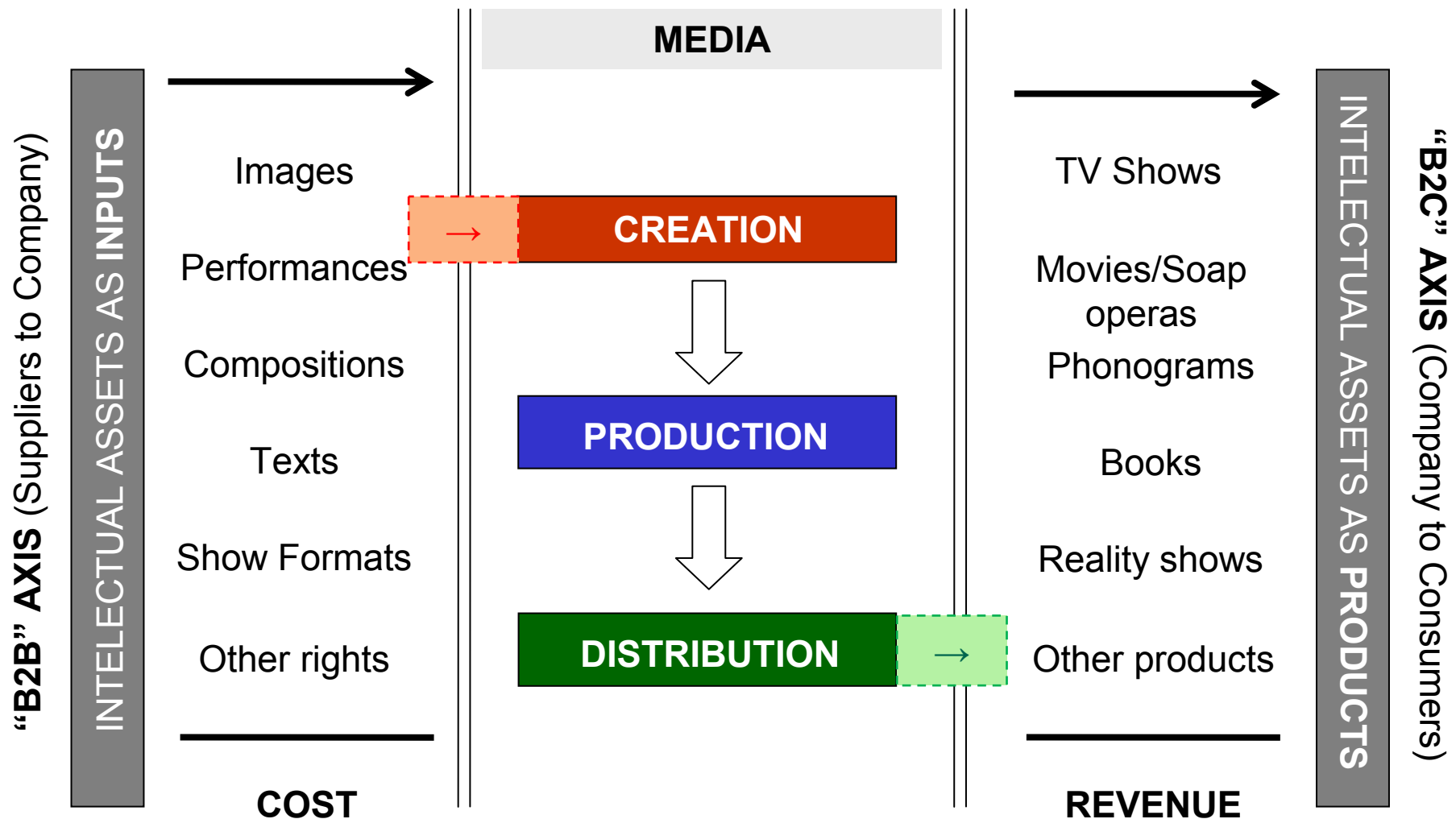
What would you do today . . .

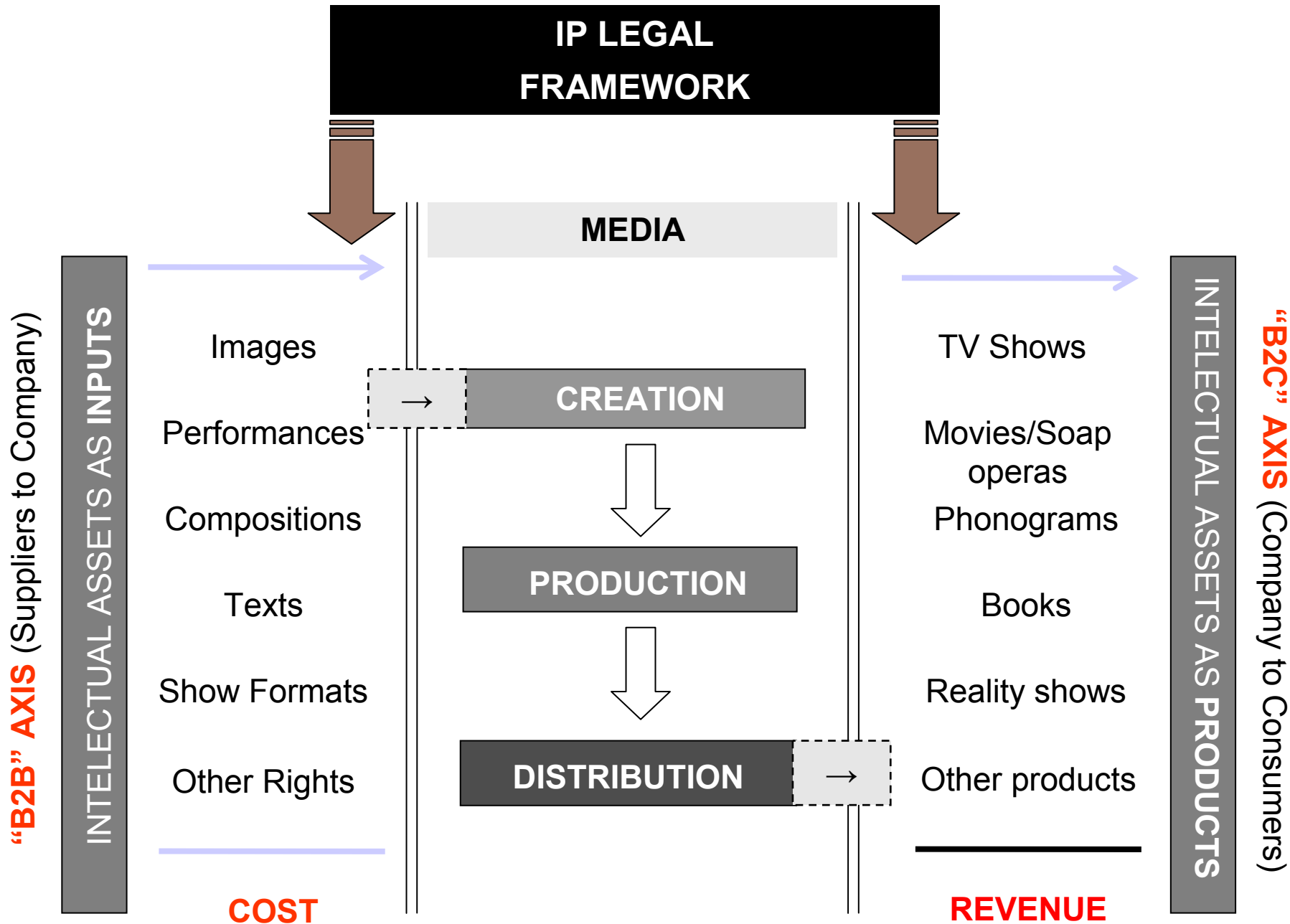


. . . if you had the day off?

THE MEDIA INDUSTRY: STAGES OF THE PRODUCTIVE PROCESS

(See VASCONCELOS, Cláudio L. *Mídia e Propriedade Intelectual: A Crônica de um Modelo em Transformação*. Rio de Janeiro: Lumen Juris, 2010, p. 85)





THE 20th-Century Industry: TELEREALITY



Analogical – unidirectional – unimediatic

THE 21st-Century Industry: THE GLOBAL SCREEN



Digital – multidirectional – multimediatric

THE DIGITAL SCHOCK: FULL OF MEANS, SHORT OF MESSAGES

CREATION

IP = Revenue

PRODUCTION

IP = Cost and
Revenue

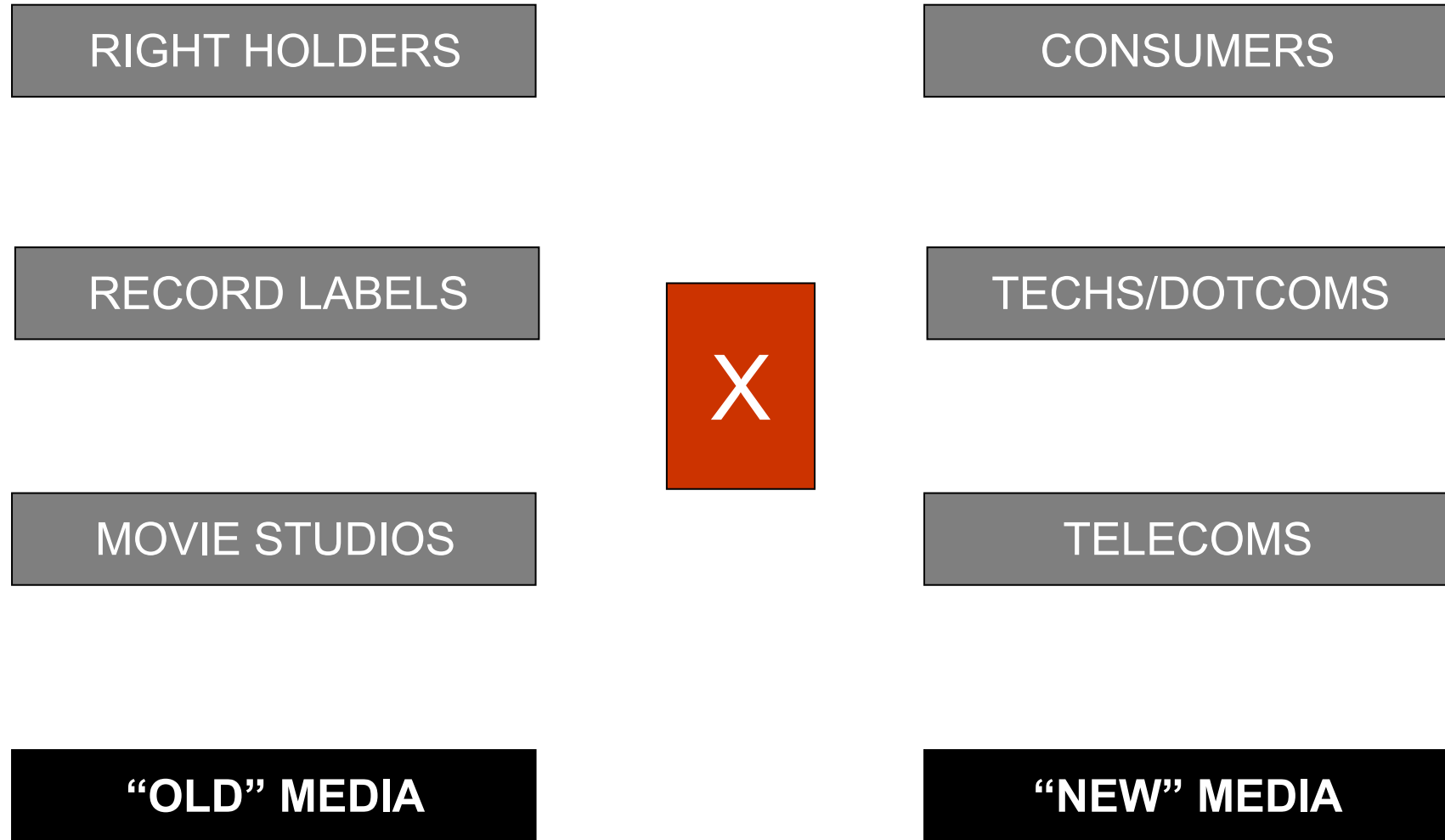
DISTRIBUTION

IP = Cost

CONSUMPTION

THE GREAT MEDIA DIVIDE

(2000 – 2010)



DECADE OF '10: TECHNOLOGY WITHOUT CONTENT LACKS CONTEXT



WITH THE APP REVOLUTION WE'VE LEARNED: NOTHING NEW UNDER THE CLOUD

1

CONSUMERS WANT CONTENT-INTENSIVE PRODUCTS IN A USER-FRIENDLY INTERFACE (AND WILL WAIT DAYS IN LINE FOR IT)

2

THERE IS NO SUCH THING AS "OLD" AND "NEW" MEDIA. BORN DOTCOM OR NOT, THEY ARE ALL DIGITAL NOW, OPERATING IN THE SAME BUSINESS CHAIN

3

NO BUSINESS WOULD EVER PAY FOR ANY INPUT IF IT COULD, BUT MOST HAVE TO. OTHERWISE, IT IS CALLED "UNFAIR COMPETITION"

4

SELLING ADS ATTACHED TO PROTECTED CONTENT WITHOUT SHARING THE REVENUE TO SEE WHAT THE COURTS SAY IS NO BUSINESS MODEL

AND WHAT DOES THE INDUSTRY WANT, AFTER ALL?

CLEAR AND EFFECTIVE LAWS

COST AND REVENUE PREDICTABILITY

RESPECT TO CONTRACTS

JUSTICE AND LEGAL SECURITY

THE MAIN FORMS OF CONTENT MEDIATION

▪ **Professional Media:** content is treated as an asset, bought as an input and sold as a product. Investments must be recovered directly, based on the intrinsic value of the content in itself. Ex.: broadcast and pay TV, movie studios, record labels, etc.

▪ **Amateur Media:** content is an interpersonal communication tool. It may be professionally produced or not, but its mediation (selection, criticism, exhibition, etc.) is rewarded by non-monetary means, such as popularity. Creators/producers rarely compensated. Ex.: Facebook uploads, P2P networks.

▪ **Institutional Media:** content is a means to achieve a parallel end (economic, political, etc.). Investments are recovery indirectly. Ex.: free books to sell conferences; free downloads to sell merchandise; free entertainment to “sell” a political party project

▪ **Non-Media:** content is distributed by the creator him/herself, without any critical evaluation by third parties. “Solitary” investments in creation and production must be recovered directly, on the creator’s own risk. Ex.: the artist who creates, produces and sells his/her own records.

PROS AND CONS OF THE FORMS OF CONTENT MEDIATION

▪ Professional Media:



Quality, accountability, value is focused on content itself

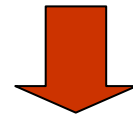


Economic barriers, limitations to consumer choice

▪ Institutional Media:



Free access, secondary economic benefits



Content value attached to a purely economic, political or institutional (hidden?) agenda

▪ Amateur Media:



Social participation, multidirectional dialogue



Undermining of content economic value, reduced incentives to creation/production

▪ Non-Media:



Freedom of artistic expression, economic de-intermediation



“Solitary” investment, low aggregate value, lack of shared references

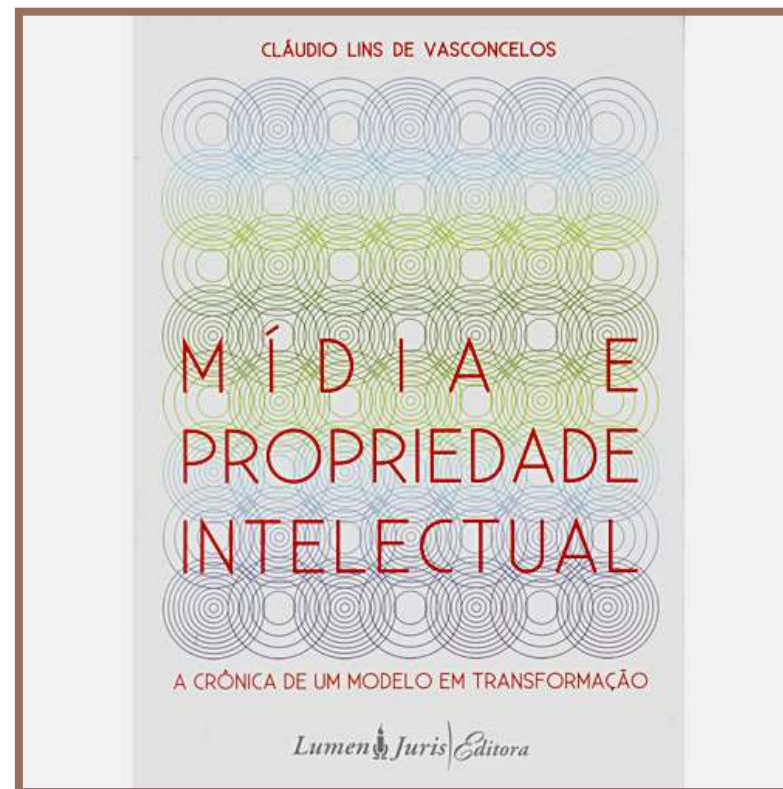
“Caminante, son tus huellas / el camino, y nada más; / caminante, no hay camino, / se hace camino al andar. / Al andar se hace camino, / y al volver la vista atrás / se ve la senda que nunca / se ha de volver a pisar. / Caminante, no hay camino, / sino estelas en la mar...”

(ANTONIO MACHADO, **Proverbios y Cantares**)



TO KEEP ON TALKING...

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