

Who Is An Inventor?

The Supreme Court has said that “Inventors are a meritorious class. They are public benefactors. They add to the wealth and comfort of the community, and promote the progress of civilization.” **More technically, an inventor is defined as a person who contributes to the conception of an invention as it is claimed.** “Conception” is the formation in the mind of the inventor of a definite and permanent idea of the operative invention as it is thereafter to be applied in practice.

Under the current U.S. patent system, patent applications must be filed with the names of all of the inventors. Errors in identifying the inventors may affect the enforceability of the patent, making it important to correctly identify the inventors when the application is filed. It is possible to correct mistakes if they are found later, although patent counsel should be consulted as soon as they are found to prevent complications.

An invention may be the work of two or more joint inventors. Each joint inventor must contribute to the conception of the invention, but each of the joint inventors need not make the same type or amount of contribution to the invention. Each of the joint inventors needs to perform only a part of the task that produces the invention.

A person who merely conducts experiments at the direction of another is not an inventor, although a person is not precluded from being a joint inventor simply because his or her contribution is experimental. Nor does a person lose status as a joint inventor just because he or she used the services, ideas or aid of others in perfecting the invention.

A JOINT INVENTOR MUST:

- 1 Contribute in some significant manner to the conception or reduction to practice of the invention
- 2 Make a contribution to the claimed invention that is not insignificant in quality when measured against the dimension of the full invention
- 3 Do more than merely explain well-known concepts or the current state of the art

Errors in identifying the inventors may affect the enforceability of the patent, making it important to correctly identify the inventors when the application is filed.

There can be joint inventors even though they did not physically work together, they did not make the same type or amount of contribution, or they did not contribute to each claim. One who merely assists the actual inventor after conception of the claimed invention is not a joint inventor. One who simply provides the inventor with well known principles or explains the prior art without having a firm and definite idea of the invention as a whole is not a joint inventor. One of ordinary skill in the art who simply reduces the inventor's idea to practice is not a joint inventor.

The inventorship for a utility or design patent application therefore is determined by the claims in the patent or patent application. For a provisional application, where claims are optional, inventorship should be determined by the scope of the disclosure.

The order of inventions listed in the patent has no legal significance, and is determined by the order the invention is listed on the filing papers. Each of the listed inventors is presumed to have made some contribution to the claimed invention, regardless of the placement in the list.