

Summary

- An inventor must have conceived an essential element of the invention.
- Authorship and inventorship have different criteria and are not equivalent.
- Inventorship is determined by a patent attorney.
- Correct inventors must be named on the patent.

Number of Inventors by School

- Medicine – 2,611
- Engineering – 2,473
- Humanities & Sciences – 889
- Dean of Research – 223
- SLAC – 69
- Earth Sciences – 29



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Who is (and is not) an Inventor?



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Who is an Inventor?

Anyone can be an inventor! But not everyone can be named on a patent application.

☞ Patent law defines an inventor of a patentable invention as someone who conceives of an original, useful and non-obvious idea. ☞



Who is not an Inventor?

☞ An inventor must have conceived (a mental act) an essential element of the invention. ☞

A person who actually made a physical embodiment of the invention, however, may not be inventor, no matter how difficult the reduction to practice was.



A person who contributed only labor and/or the supervision of routine techniques, but who did not contribute to the concept of one of the embodiments of the claimed invention is not considered an inventor.

A person is not an inventor if he/she makes the invention work by following instructions or does all the experiments with direction from another person.

A person who contributed an extraneous idea while the invention was being developed, but whose idea did not contribute directly to the claimed invention is not considered an inventor.



It does not matter how brilliant or helpful the idea is, if it is not directed to the invention as it is being claimed in the patent application, the person is not an inventor.

Faculty and Students

Questions of inventorship can arise when faculty and students work on a research project. Quite often, an invention is co-invented by a faculty and a student because they are collaborating and “conceive of an invention” together. Other times, the faculty alone, or the student alone, may be deemed the inventor.



Often, the faculty has thought of general concepts well before the student was ever involved in the invention. If the student does not contribute directly to the claimed invention, then the faculty could be considered the sole inventor.

In other situations, conceiving general concepts does not necessarily convey inventor status. If the student takes a general idea and conceives the essential elements necessary to make the invention work, the student could be considered the sole inventor.

Inventorship vs. Authorship

Inventorship should not be confused with authorship on a scientific publication. ☞ The courts have specifically held that authorship and inventorship have different criteria and are not equivalent. ☞



Who Determines Inventorship?

☞ Inventorship is determined by a patent attorney or agent, who asks all parties to describe their personal contributions to the claimed invention. ☞ Often, the attorney will examine notebook pages or other tangible proof of inventorship.

☞ The correct inventors must be named on a patent or the patent can be invalidated. Inventorship also confers rights to receive royalties under Stanford's patent policy so there is an economic consequence to being named/not named as an inventor. ☞