Defining Inventorship

Inventorship is based on conception:

➢ Invention requires conception of an inventive idea coupled with reduction to practice to create a working example.

➢ Inventorship is based solely on conception, the mental aspect of invention:
  - Conception is the formation in mind of inventor, of a definite and permanent idea of *the complete and operative invention*, as it is hereafter to be applied in practice (i.e., enabling a person of skilled in the art to reduce the conception to practice without any further research or exercise of the inventive skills.).
  - Claims determine inventorship.
    - Ask if this person had not contributed, would the invention exist, as claimed.
  - Inventorship is a question of law determined by the court based on contributions.
Defining Joint Inventorship

Joint Inventorship:

• *It is one of the muddiest concepts in the muddy metaphysics of the patent law.*

• Joint Invention = two or more persons, **collaborating** together (conceptually), each *contribute significantly to conception* of the invention (contribution to at least one claim).

• A joint inventor’s contribution must be *joint in manner and inventive in nature.*

• Minimum requirement: contribution to one claim.

• In unpredictable arts such as chemical and biological arts, the person actually reducing the conceived invention to practice can also be an inventor only if the reduction to practice requires *extensive research and beyond ordinary skill & experimentation.*
Common Errors in Naming Inventors

- Using inventorship as a reward – Inventorship is a legal question, not a political one.
- Naming every author – The standards for authorship are different.
- Naming the supervisor – posing problem to be solved not sufficient, or mere direction or approval of inventive activity not sufficient.
- Naming the executor – unless the executor makes improvements that are claimed.
- Naming the expert – Explanation of what is already known is not conception.
- A person who only conceives the result to be obtained but not the means of how to achieve it, is not an inventor.
- A person who discovers the problem but does not contribute to the solution, is not an inventor.