Good Lab Notebook Practice

Why does it matter?

- (Currently) the U.S. Patent office grants patents to those who first conceive an invention.
- A laboratory notebook, if properly prepared, is an excellent source of evidence to prove conception
- CONCEPTION - “Conception” – An invention is considered “conceived” if every feature is described so that actual RTP requires only ordinary skill in the art.

But what if it’s “just an idea?”

- Simultaneous reduction to practice is not necessary, but diligent reduction to practice is in order to be entitled to the conception date.
- Does your lab notebook show that you are making diligent efforts to implement your idea, make a prototype or confirm your theory?
- Details, Details, Details? Every aspect of the invention should be described.

WHO?

- All researchers involved in the project should be keeping their own lab notebooks (but they should NOT be witnessing each other’s notebooks).
- This not only helps to determine who did what and when, it will also assist your patent attorney in determining inventorship.

WHAT?

- Early on, you may only have a brief written description and perhaps some sketches.
- You may be competing with another researcher elsewhere without even knowing, so carefully describe your idea, including alternatives.
• The more complete your description, the more likely you can rely on “constructive reduction to practice.”

WHEN

• Completely describing (enabling) the invention, i.e., “guessing right” could entitle you to claim the original conception date for the entire invention.

• A misconception, however, where the actual RTP shows the invention is actually different than originally conceived, will not only result in a different invention, but a different conception date.

WHERE

• Who’s lab is it, anyway?

• Consortium agreements present complexities. Who owns, or who prosecutes, may depend on whether the invention is joint or solely owned.

• Where the work is done is relevant to ownership where no formal research agreement is present.

• Even inventorship at different units or centers may affect how you deal with IP (Fed. Labs, Centers w/ membership rights, etc.)

WHY

• Describing the problem you are trying to solve is a good idea. May also show diligent reduction to practice.

• Identify why you are doing the particular experiment.

HOW (to make entries)

• Use ink.

• Don’t erase or white out. If you must make a correction, cross out and write correct entry (avoid writing above or using margin writing).

• Don’t skip or tear out pages

• Consecutively date and sign
• Have another researcher (not one directly involved with the project who can understand the entries) sign and date regularly.

• Each entry should be complete enough so that the person corroborating the entry can understand it without additional explanation.

• Make sure diagrams are complete (if it is not much more than a black box, it will not serve a useful purpose.) If explanations are needed to understand a diagram, enter them.

• Loose pages separately prepared should be pasted in the notebook.

• Use a bound notebook.

• Two or more people CAN use the same notebook (unless the department rules otherwise) but each should make careful entries and sign and date after each entry.

• Identify all materials/equipment being used for testing/RTP.

• Photos should be pasted in the notebook.

• NEVER tear a page out.

LITIGATION, etc

• Proper notebooks (clear, complete, unadulterated, dated and witnessed) can be used to corroborate the oral testimony in court of your inventor. To prevent fraud, only portions of inventor notebooks which meet these tests will be useful in corroboration.

• Infringement, interference (1st to invent), inventorship. (Useful in SETTLEMENT)