

## Interferences

Occasionally two or more applications are filed by different inventors claiming substantially the same patentable invention. The patent can only be granted to one of them, and a proceeding known as an “interference” is instituted by the Office to determine who is the first inventor and entitled to the patent. About one percent of the applications filed become involved in an interference proceeding. Interference proceedings may also be instituted between an application and a patent already issued, provided that the patent has not been issued, nor the application been published, for more than one year prior to the filing of the conflicting application, and provided also that the conflicting application is not barred from being patentable for some other reason. Each party to such a proceeding must submit evidence of facts proving when the invention was made. In view of the necessity of proving the various facts and circumstances concerning the making of the invention during an interference, inventors must be able to produce evidence to do this. If no evidence is submitted a party is restricted to the date of filing the application as his/her earliest date. The priority question is determined by a board of three administrative patent judges on the evidence submitted. From the decision of the Board of Patent Appeals and Interferences, the losing party may appeal to the Court of Appeals for the Federal Circuit or file a civil action against the winning party in the appropriate United States district court.

The terms “conception of the invention” and “reduction to practice” are encountered in connection with priority questions. Conception of the invention refers to the completion of the

devising of the means for accomplishing the result. Reduction to practice refers to the actual construction of the invention in physical form: in the case of a machine it includes the actual building of the machine, in the case of an article or composition it includes the actual making of the article or composition, in the case of a process it includes the actual carrying out of the steps of the process. Actual operation, demonstration, or testing for the intended use is also usually necessary. The filing of a regular application for patent completely disclosing the invention is treated as equivalent to reduction to practice. The inventor who proves to be the first to conceive the invention and the first to reduce it to practice will be held to be the prior inventor, but more complicated situations cannot be stated this simply.