

THE UNITED STATES MOVES TO A FIRST TO FILE PATENT SYSTEM
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The Federal Government instituted sweeping changes to United States Patent Law with enactment of the “America Invents Act” a few years back. One of the most significant changes is a change from a First to *Invent* system to a First to *File* system.

The old First to Invent system awarded inventors who were first to invent (i.e., conceive of an operable embodiment and diligently work towards a reduction to practice) with the right to seek patent protection for an invention over any and all subsequent inventors who independently invented the same invention. It was the First to Invent system that made maintenance of a dated laboratory notebook so important as such dated notes were often the cornerstone for establishing an early date of conception.

The new First to File system ignores date of conception - eliminating much of the need to maintain a dated laboratory notebook, and awards inventors who are first to file a patent application with the right to seek patent protection for the claimed invention over any and all other inventors who independently invented the same invention.

The new First to File system is much easier to implement - no more expensive interference proceedings to determine who conceived first and whether such conception was followed by a diligent reduction to practice, but at the expense of pushing inventors and their patent attorneys to prepare and file patent applications at a much earlier stage of development - often resulting in the preparation and filing of patent applications that subsequent research and experimentation proves to be technologically flawed or misdirected and of little or no value.