PATENT INVENTORSHIP

- Inventorship can be important for determining patent ownership. Inventors often have contractual obligations by virtue of employment that entitles their employer to ownership of IP developed in their course of employment.
- The inclusion of a person who is not an inventor, or omission of someone who is an inventor, will provide grounds for a patent to be challenged and in some cases revoked.

GUIDELINES FOR INVENTORSHIP DETERMINATION

- Protocol, status or generous sharing of credit, have no bearing on who should be named as inventors.
- The criteria for inventorship are different to that for authorship on a research paper. Generally, the list of inventors will be a subset of the list of authors. You must be able to justify inventorship.
- Consider the following questions:

  Did Person X (colleague, student or collaborator) contribute to the concept of the invention (i.e. contribute to the initial idea and the plan of how to achieve the outcome)?
  or
  Did Person X contribute to devising a way to allow the invention to work (or work better) that involved something more than one would expect from a person skilled in the field of invention?
  Was Person X involved in more than routine construction or formulation, experimentation and testing?

  If the answer is YES to any of these questions, then Person X may be regarded as an inventor.

  If you are still not sure, consider:
  But for the involvement of Person X, would the invention have been achieved?

- A person should not be considered as having made an inventive contribution, if they:
  - contributed to conceiving the desired outcome but not the idea of how to achieve it,
  - contributed only to the reduction to practice and/or testing of the invention,
  - worked only under the direction or instructions of another,
  - contributed only by providing materials,
  - did not contribute to the conception or achievement of the invention but supervised or managed staff who did.