

Black's Law Dictionary (12th ed. 2024), estoppel

ESTOPPEL

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estoppel (e-stop-əl) *n.* (16c) **1.** A bar that prevents one from asserting a claim or right that contradicts what one has said or done before or what has been legally established as true. **2.** A bar that prevents the relitigation of issues. **3.** An affirmative defense alleging good-faith reliance on a misleading representation and an injury or detrimental change in position resulting from that reliance. Cf. [waiver](#) (2). — **estop**, *vb.*

“‘Estoppe,’ says Lord Coke, ‘cometh of the French word *estoupe*, from whence the English word stopped; and it is called an estoppel or conclusion, because a man’s own act or acceptance stoppeth or closeth up his mouth to allege or plead the truth.’ [Co. Litt. 352a.] Estoppel may also be defined to be a legal result or ‘conclusion’ arising from an admission which has either been actually made, or which the law presumes to have been made, and which is binding on all persons whom it affects.” Lancelot Feilding Everest, *Everest and Strode’s Law of Estoppel* 1 (3d ed. 1923).

“In using the term ‘estoppel,’ one is of course aware of its kaleidoscopic varieties. One reads of estoppel by conduct, by deed, by laches, by misrepresentation, by negligence, by silence, and so on. There is also an estoppel by judgment and by verdict; these, however, obviously involve procedure. The first-named varieties have certain aspects in common. But these aspects are not always interpreted by the same rules in all courts. The institution seems to be flexible.” John H. Wigmore, “The Scientific Role of Consideration in Contract,” in *Legal Essays in Tribute to Orrin Kip McMurray* 641, 643 (Max Radin & Alexander M. Kidd eds., 1935).

“Estoppel is basically a tort doctrine and the rationale of the section is that justice requires the defendant to pay for the harm caused by foreseeable reliance upon the performance of his promise. The wrong is not primarily in depriving the plaintiff of the promised reward but in causing the plaintiff to change position to his detriment.” Warren A. Seavey, [*Reliance Upon Gratuitous Promises or Other Conduct*](#), 64 Harv. L. Rev. 913, 926 (1951).

- **administrative collateral estoppel** See [collateral estoppel](#).
- **assignee estoppel** (1970) *Patents*. The equitable doctrine that bars the assignee of a patent from contesting the patent’s validity under some circumstances, as when the assignee seeks to avoid royalty payments, to void an assignment contract, or to mitigate damages related to the

assignee's fraudulent acquisition of the patent. • The doctrine prevents an assignee from simultaneously attacking and defending the validity of the same patent.

- **assignor estoppel** (1959) *Patents*. Estoppel barring someone who has assigned the rights to a patent from later attacking the patent's validity. *Westinghouse Elec. & Mfg. Co. v. Formica Insulation Co.*, 266 U.S. 342, 45 S.Ct. 117 (1924). • The doctrine was narrowed by *Diamond Scientific Co. v. Ambico, Inc.*, 848 F.2d 1220 (Fed. Cir. 1988), in which the court held that in some circumstances equity may outweigh the public-policy reasons behind the estoppel doctrine.

- **collateral estoppel** See collateral estoppel.

- **counterestoppel** (1834) **1.** A situation in which two disputing parties are both estopped, the effect being that the two estoppels cancel or neutralize each other; specif., the circumstance in which one party to a transaction is denied the right to assert estoppel against the other party by reason of facts that create an estoppel against the party asserting estoppel. **2.** The doctrine by which a party asserting estoppel can be held, under certain circumstances, to be estopped, so that the two estoppels cancel or neutralize each other; specif., an equitable doctrine whereby if one party is estopped from asserting a particular position because of a prior conflicting representation that the other party relied on, that other party's claim may be canceled out if it, too, has made a prior conflicting representation relied on by the other. — Also termed *estoppel against estoppel*.

- **equitable estoppel** (18c) 1. A defensive doctrine preventing one party from taking unfair advantage of another when, through false language or conduct, the person to be estopped has induced another person to act in a certain way, with the result that the other person has been injured in some way. • This doctrine is founded on principles of fraud. The five essential elements of this type of estoppel are that (1) there was a false representation or concealment of material facts, (2) the representation was known to be false by the party making it, or the party was negligent in not knowing its falsity, (3) it was believed to be true by the person to whom it was made, (4) the party making the representation intended that it be acted on, or the person acting on it was justified in assuming this intent, and (5) the party asserting estoppel acted on the representation in a way that will result in substantial prejudice unless the claim of estoppel succeeds. — Also termed *estoppel by conduct*; *estoppel in pais*. 2. See [*promissory estoppel*](#).
- **ERISA estoppel** (1990) Estoppel arising from a written misrepresentation in or about an employee benefit plan or a fiduciary.
- **estoppel against estoppel** See [*counterestoppel*](#).
- **estoppel by acquiescence** (1869) Estoppel arising from a party's failure to respond to a claim within a reasonable time after receiving notice of the claim, thereby giving rise to a presumption of acceptance.
- **estoppel by agreement** (1864) Estoppel based on the terms of a contract between the parties expressly or

impliedly showing a mutual acceptance of certain facts or assumptions. — Also termed *estoppel by convention*.

- **estoppel by conduct** See [*equitable estoppel*](#).

- **estoppel by contract** (1874) A bar that prevents a person from denying a term, fact, or performance arising from a contract that the person has entered into.

- **estoppel by convention** See [*estoppel by agreement*](#).

- **estoppel by deed** (1841) Estoppel that prevents a party to a deed from denying anything recited in that deed if the party has induced another to accept or act under the deed; esp., estoppel that prevents a grantor of a warranty deed, who does not have title at the time of the conveyance but who later acquires title, from denying that he or she had title at the time of the transfer. See [*after-acquired-title doctrine*](#). — Also termed *estoppel by warranty*.

“The apparent odiousness of some classes of estoppel, chiefly estoppels by deed, seems to result not so much from the nature of an estoppel, as from the highly technical rules of real property law upon which it operated, and with which it was associated. Estoppels by record, indeed, stand upon a considerably higher footing than estoppels by deed ...” Lancelot Feilding Everest, *Everest and Strode's Law of Estoppel* 10 (1923).

- **estoppel by election** (1906) The intentional exercise of a choice between inconsistent alternatives that bars the person making the choice from the benefits of the one not selected.

- **estoppel by inaction** See [*estoppel by silence*](#).

- **estoppel by judgment** See [collateral estoppel](#).
- **estoppel by laches** (1894) An equitable doctrine by which some courts deny relief to a claimant who has unreasonably delayed or been negligent in asserting a claim.
- **estoppel by misrepresentation** (1882) An estoppel that arises when one makes a false statement that induces another person to believe something and that results in that person's reasonable and detrimental reliance on the belief.
- **estoppel by negligence** (1875) An estoppel arising when a negligent person induces someone to believe certain facts, and then the other person reasonably and detrimentally relies on that belief. Cf. [assisted misrepresentation under misrepresentation](#).
- **estoppel by record** See [collateral estoppel](#).
- **estoppel by representation** (1863) An estoppel that arises when one makes a statement or admission that induces another person to believe something and that results in that person's reasonable and detrimental reliance on the belief; esp., equitable estoppel.
- **estoppel by silence** (1872) Estoppel that arises when a party is under a duty to speak but fails to do so. — Also termed *estoppel by standing by*; *estoppel by inaction*.
- **estoppel by standing by** See [estoppel by silence](#).
- **estoppel by verdict** See [collateral estoppel](#).
- **estoppel by warranty** See [estoppel by deed](#).
- **estoppel in pais** See [equitable estoppel](#).
- **estoppel on the record** See [prosecution-history estoppel](#).

- **file-wrapper estoppel** See [*prosecution-history estoppel*](#).
- **judicial estoppel** (1886) Estoppel that prevents a party from contradicting previous declarations made during the same or an earlier proceeding if the change in position would adversely affect the proceeding or constitute a fraud on the court. — Also termed *doctrine of preclusion of inconsistent positions*; *doctrine of the conclusiveness of the judgment*.
- **legal estoppel** (1818) Estoppel recognized in law (as distinguished from equitable estoppel or estoppel in pais), such as an estoppel resulting from a recital or other statement in a deed or official record, and precluding any denial or assertion concerning a fact.
- **marking estoppel** (1973) *Patents*. Estoppel that prevents a party from asserting that a product is not covered by a patent if that party has marked the product with a patent number. • This type of estoppel has been questioned in recent years, and has been sharply limited by some courts.
- **promissory estoppel** (1924) The principle that a promise made without consideration may nonetheless be enforced to prevent injustice if the promisor should have reasonably expected the promisee to rely on the promise and if the promisee did actually rely on the promise to his or her detriment. — Also termed (inaccurately) *equitable estoppel*.

“One of the earlier attempts at a doctrine of enforceability because of action in reliance was to state a rule that a promise might become enforceable by reason of ‘promissory estoppel.’ The use of this phrase made some

headway, because it satisfied the need of the courts for a justification of their enforcement of certain promises in the absence of any bargain or agreed exchange. Nevertheless, the phrase is objectionable. The word estoppel is so widely and loosely used as almost to defy definition yet, in the main, it has been applied to cases of misrepresentation of facts and not to promises. The American Law Institute was well advised in not adopting this phrase and in stating its rule in terms of action or forbearance in reliance on the promise.” Arthur Linton Corbin, *Corbin on Contracts* 204 (one-vol. ed., 1952).

“The doctrine of promissory estoppel is equitable in origin and nature and arose to provide a remedy through the enforcement of a gratuitous promise. Promissory is distinct from equitable estoppel in that the representation at issue is promissory rather than a representation of fact. ‘Promissory estoppel and estoppel by conduct are two entirely distinct theories. The latter does not require a promise.’” Ann Taylor Schwing, [*California Affirmative Defenses* § 34:16, at 35 \(2d ed. 1996\)](#) (quoting [*Division of Labor Law Enforcement v. Transpacific Transp. Co.*, 88 Cal. App. 3d 823, 829 \(Cal. Ct. App. 1979\)](#))).

- **proprietary estoppel** (1927) *Property. English law.* An equitable doctrine that bars a landowner from denying the claim of someone who has reasonably and detrimentally relied on the owner’s clear assurance of acquiring ownership of or a right to use land.

- **prosecution-history estoppel** (1983) *Patents*. The doctrine limiting a patent-holder's invocation of the doctrine of equivalents by eliminating from the claims those elements that the holder surrendered or abandoned during the prosecution of the patent. — Also termed *estoppel on the record*; *file-wrapper estoppel*. See [doctrine of equivalents](#).
- **quasi-estoppel** (1823) An equitable doctrine preventing one from repudiating an act or assertion if it would harm another who reasonably relied on the act or assertion.
- **technical estoppel** (1802) **1.** An estoppel arising from a matter of record or from a deed made by the party who is claimed to be estopped. • Estoppels by deed or by record are called “technical” because the rules of estoppel apply with certainty in appropriate cases. **2.** [collateral estoppel](#). See [estoppel by deed](#).

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