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**Q244**

## **Inventorship of multinational inventions**

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### **I. Current law and practice**

1) Please describe your law defining inventorship and identify the statute, rule or other authority that establishes this law.

a) If person A, located outside your country, directs the efforts of person B, located in your country, for making an invention in your country, under what circumstances would person A and/or person B be considered an inventor under your law?

*Article 9 of our Patent Law states that unless proven otherwise, the natural person or persons designated as inventors in the patent or utility model application will be presumed to be inventors. The inventor or inventors will have the right to be mentioned in the corresponding Certificate.*

*Article 9 of the Regulations of the Patent Law establishes that the inventor or the inventors that have assigned their rights may request at any stage of the proceedings to be mentioned in the corresponding Certificate, provided they can prove they are inventors. The corresponding request will be served to the assignee for the period of 30 days. In case there is an opposition to the request, the PTO will decide the matter within 30 days counted as from the response filed by the assignee or from the date of production of the requested proof for the decision of the issue.*

*Although our Law does not contemplate this specific case and there is no case law in this issue, we consider that the inventor should be considered any person who substantially contributed to the invention. In any event, it should be borne in mind that the location of the inventor should not play any role in this respect.*

b) Does your law defining inventorship rely on or look to a particular part of the patent application? For

example, is inventorship under your law determined on a claim by claim basis, determined based on the content of the drawings or the examples, or determined on some other, and if so, what basis?

yes

Please comment:

*Our Law does not rely on a particular part of the patent application to define inventorship.*

2) Does your law of inventorship depend on the citizenship of the inventor(s)?

no

Please comment:

3) Does your law of inventorship depend on where the invention was made (e.g. on the residency of the inventor(s))?

no

Please comment:

4) Can the inventorship of a patent application be corrected after the filing date in your country?

yes

If yes, what are the requirements and time limits for such correction?:

*As mentioned in Article 9 of the Regulations of the Patent Law the inventor or the inventors that have assigned their rights may request at any stage of the proceedings to be mentioned in the corresponding Certificate, provided they can prove they are inventors.*

*A request must be filed with the PTO and same will be served to the applicant or assignee. If the latter opposes and does not wish to have said person or persons mentioned as inventors, the PTO has a 30 day term to resolve the matter.*

5) What are the possible consequences of an error in the stated inventorship on a patent application in your country? Can a patent issued from such an application be invalidated or rendered not enforceable on that basis? Does it matter whether the error was intentional or unintentional?

*There are no specific rules covering this matter. However, since the case deals with the right to be mentioned of the inventor (moral rights) we believe the patent issued is not at risk of being invalidated or rendered unenforceable.*

6) Does your law require that an application for a patent claiming an invention made in your country, whether in only one technical area or in all technical areas, be filed first in your country?

no

If no please comment:

a) Is the law requiring first filing in your country limited to a specific area of technology or otherwise limited such that it does not apply to all inventions made in your country? If yes, please explain.

7) Does your law require that a patent application claiming an invention made, at least in part, in your country undergo a secrecy review or similar process before it can be filed in another country?

no  
If no please comment:

## II. Policy considerations and proposals for improvements of the current law

- 8) If your law defines inventorship, is this definition sufficient to provide patent applicants with clear guidance as to who should be named as the inventor(s) of a patent application? Are there aspects of this definition that could be improved?

*Our Patent Law does not provide a clear guidance as to who should be mentioned or named as an inventor. It just states that any person mentioned as an inventor will be presumed to be one.*

*We consider that it would be advisable to include a definition of who should be considered as an inventor (whoever substantially contributes to the invention).*

- 9) If you have laws requiring first filing of patent applications directed to inventions made in your country, are there aspects of these laws that could be improved to address multinational inventions?

N/A

- 10) If you have laws requiring a secrecy review of patent applications directed to some or all types of inventions made in your country, are there aspects of these laws that could be improved to address multinational inventions?

N/A

- 11) Are there other aspects of your law that could be improved to facilitate filing of patent applications having multinational inventorship? If yes, please explain.

*We believe that the system as it stands today is fine.*

## III. Proposals for harmonisation

- 12) Is harmonisation in this area desirable?

yes  
Please comment.:

If yes, please respond to the following questions without regard to your national or regional laws. Even if no, please address the following questions to the extent you consider your national or regional laws could be improved.

- 13) Please provide a definition of inventorship that you believe would be an appropriate international standard.

*We consider that a suitable international standard of inventorship could be the one stating that an inventor is whoever substantially contributes to the invention.*

- 14) Please propose a standard for correction of inventorship after a patent application is filed, together with

any requirements necessary to invoke this standard (e.g. intentional versus unintentional error) and any timing requirements (e.g. during pendency of the application).

*We understand that inventorship should be allowed to be corrected during pendency of the application provided the person requesting to be mentioned as inventor proves his or her condition as such.*

*After grant only the correction of inventorship due to an intentional error should be allowed. The same proof as mentioned above should be requested.*

15) If you believe such a requirement is appropriate, please propose an international standard for first filing requirements that would take into account multinational inventions.

*We do not believe this requirement to be appropriate.*

16) If you believe such a requirement is appropriate, please propose an international standard for secrecy review requirements that would take into account multinational inventions.

*We do not believe this requirement to be appropriate.*

17) If you believe such a requirement is appropriate, please propose an international standard for obtaining a foreign filing license.

*We do not believe this requirement to be appropriate.*

18) Please propose an international standard for an ability to cure or repair an inadvertent failure to comply with a first filing requirement or a security review requirement.

N/A

19) Please propose any other standards relating to multinational inventions (excluding those related to inventor remuneration or ownership of the invention) that you feel would be appropriate.

*We believe no further standards are needed.*

#### Summary

Under our Patent Law any person mentioned as an inventor will be presumed to be an inventor. No definition and no specific circumstances that should be taken into account to determine inventorship are provided.

An inventor that has assigned his or her invention may request at any time to be mentioned in the Certificate.

There is no "foreign filing" requirement in Argentina.

Inventorship should be allowed to be corrected at any time during pendency of the application provided the inventor can prove his or her condition. After grant corrections should be allowed only in case of intentional error.

Please comment on any additional issues concerning the multinational inventions you consider relevant to this Working Question.

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