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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?

Art. XI.9 of the Belgian Code of Economic Law provides that the right to the patent belongs to the "inventor" or its successor in title. However, the Code does not define inventorship. According to the Belgian case law<sup>[1]</sup> and the legal literature<sup>[2]</sup>, each person who has delivered a substantial contribution to the invention, can claim the status of inventor.

The nationality of the inventor is without influence on the question of inventorship. Under art. 191 of the Belgian Constitution and 11 of the Belgian Civil Code, in the absence of a Belgian statutory provision to the contrary, foreigners enjoy the same rights under Belgian law as those awarded to Belgian citizens. This includes the right to be recognized as the inventor of an invention. This is in line with art. 2(1) of the Paris Convention and art. 1(3) and 3 of the TRIPS Agreement. The domicile of an inventor is also without influence on the question of inventorship. This is in line with art. 2(2) of the Paris Convention.

As a consequence of the above, A and B could both be considered as inventors, provided they have delivered a substantial contribution to the invention.

**Footnotes**

1. [^ Comm. Antwerp, 18 October 2013, IRDI 2014, p. 381 ; RAGB 2013, p. 1438 ; Court of first instance of Liège, 21 January 1999, Ing.-Cons. 1999, p. 420.](#)
2. [^ M.-C. Janssens en F. Gotzen, Wegwijs in het intellectueel eigendomsrecht, 2012, pp. 232-233.](#)

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?

no

Please comment:

The Belgian case law and legal literature defining inventorship require relying on the invention as claimed. The claimed invention should be considered as a whole. Inventorship is not determined on a claim by claim basis. A substantial contribution to one of the claims is sufficient to be considered as an inventor. The contribution should be assessed on a qualitative basis, and not on a quantitative one.

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

no

Please comment:

See above under question 1.a).

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:

See above under question 1.a).

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?:

Art. XI.21 of the Belgian Code of Economic Law provides that when the patent application meets the conditions laid down for obtaining a filing date but not the other legal or regulatory requirements, which includes the designation of the inventor (or, in the absence thereof, an express request of the inventor not to be mentioned), the Belgian IP Office notifies the applicant and gives him the opportunity to regularize its application. Such regularization must be done within 3 months after the receipt of the notification and a regularization fee must be paid within the same period. At the expiration of this period, the application shall be deemed withdrawn if not regularized. The Belgian IP Office does not check the correctness or completeness of the list of designated inventors. It is noted that if no inventor is mentioned, and no express request not to be mentioned is submitted, the application will not proceed to grant because the requirement of art. XI.16, §1, 7° of the Belgian Code of Economic Law is not fulfilled. Not mentioning an inventor does however not affect the grant of a filing date (art. XI.17 of the

Belgian Code of Economic Law). If a mistake occurred in the list of designated inventors, and as long as the patent has not been granted, the applicant may also take the initiative to proceed to such regularization, without any invitation by the Office to that effect. Such proactive regularization is also subject to the payment of the prescribed regularization fee.

This procedure clearly allows the applicant to indicate the name(s) of the inventor(s) if he omitted to do so upon filing of the patent application. It should also allow the applicant to correct inventorship if a person has been incorrectly designated as an inventor or if the name of an inventor is missing. Such corrections will be mentioned in the register and should be included in the publication of the granted patent.

In practice, the Belgian IP Office also accepts corrections or additions to the list of designated inventors *after* the patent has been granted. Such corrections after grant will be mentioned in the register (no reissue of the patent).

The above is without prejudice to (i) entitlement proceedings and (ii) proceedings based on the moral right of the inventor:

- A correction or addition to the list of designated inventors in the patent application (or in the granted patent) can have implication on the ownership to the patent and, in case of dispute, give rise to entitlement proceedings according to Art. XI.10 of the Belgian Code of Economic Law.
- A correction or addition to the list of designated inventors in the patent application (or in the granted patent) can also be claimed by an inventor before a court on the basis of its moral right if the applicant does not agree with the requested correction or addition.

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?

In Belgium, an error - intentional or unintentional - in the stated inventorship on a patent application is without consequence on the validity or enforceability of the patent issued from such application. However, for a patent to be issued, an inventor must be mentioned or an express request stating that the inventor does not wish to be mentioned must have been filed with the Belgian IP Office in accordance with art. XI.13 of the Belgian Code of Economic Law.

The above is without prejudice to the consequences an error in the inventorship may have on the ownership of the patent (application). In this regard, it seems worth mentioning that a dispute on ownership can lead to the invalidation of the patent according to art. XI.57, §1, 4° of the Belgian Code of Economic Law. However, issues relating to the ownership of the patent (application) are outside the scope of this question. Therefore, these aspects are not further developed.

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?

yes

If the answer is yes, please answer the following::

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.

yes

Please comment.:

As to question 6 in general :

In Belgium, there is no first filing requirement in the meaning of question No. 6 and of the working guidelines, i.e. a first filing requirement based on the place where the invention was made.

However, Belgian law contains several legal provisions that can have an effect similar to a first filing requirement, which we consider worth mentioning. These legal provisions are not based on the place where the invention was made, but only on the nationality or residence (or registered office) of the applicant. Distinction is to be made between a Belgian national patent application, a European patent application and an international patent application.

Art. XI.82(2) of the Belgian Code of Economic Law<sup>[41]</sup> provides that a European patent application filed by a Belgian applicant or an applicant having his domicile or registered office in Belgium must be filed with the Belgian IP Office if that patent application is of relevance for the defense of the territory or the national security. As said above, this legal provision is not based on the place where the invention was made, but on the nationality or residence (or registered office) of the applicant. As a result, in such a case, the applicant is prevented from filing a European patent application with the European Patent Office. The question whether a patent application is of relevance for the defense of the territory or for the national security must be assessed by the applicant.

A similar rule applies to international patent applications. According to art. XI.91(2) of the Belgian Code of Economic Law<sup>[42]</sup>, international patent applications must be filed with the Belgian IP Office if they are of relevance for the defense of the territory or for the national security. Art. XI.91(2) is not explicitly limited to international patent applications filed by applicants with Belgian nationality or having their domicile or registered office in Belgium. However, this limitation results from rule 19(1) of the Regulations under the PCT as the Belgian IP Office is the sole competent Receiving Office for such applications.

These two rules thus only apply to European patent applications (filed according to the EPC) and international patent applications (filed according to the PCT). They do not apply to other types of patent applications. Therefore, they do not prevent the applicant from filing other types of patent applications abroad in the first place, e.g. national patent applications outside Belgium or regional patent applications outside the EPO.

The only provision that limits the possibility for an applicant to file a patent application abroad in the first place is the Act of 10 January 1955 "on the disclosure and implementation of inventions and trade secrets which are of relevance for the defense of the territory or for the national security". This act contains a very broad provision (art. 1) that prohibits the disclosure of inventions and trade secrets if such disclosure is contrary to the interests of the defense of the territory or national security. It is provided that the author of the disclosure (or the person who caused this disclosure through negligence) shall only be punished if it is established that he couldn't have ignored that the disclosure was contrary to the interests of the defense of the territory or national security.

A patent application (any type of patent application) filed in a foreign country could be considered as a disclosure in the meaning of this provision<sup>[43]</sup>. Therefore, such patent application filed abroad could lead to a breach of this provision, if the applicant cannot have ignored that such disclosure was contrary to the interests of the defense of the territory or national security. The preparatory works of this act make it clear that this can result either from the very nature of the invention or from a joint decision of the Minister of Defense and the Minister of Economy<sup>[44]</sup>. In the absence of such joint decision, the preparatory works acknowledge that, for inventions that do *not* concern weapons, it is very difficult to assess if the disclosure would be contrary to the interests of the defense of the territory or national security, and that the act must be applied in a reasonable way<sup>[45]</sup>.

As to question 6.a) in particular :

The rules referred to above are limited to inventions that are of relevance for the defense of the territory or for the national security. They apply irrespective of the technical area to which the invention belongs.

**Footnotes**

1. <sup>^</sup> See also art. 3(2) of the Act of 8 July 1977 “approving the following international instruments: 1. Convention on the Unification of Certain Points of Substantive Law on Patents for Invention, done in Strasbourg on 27 November 1963 ; 2. Patent Cooperation Treaty and Regulations, done in Washington on 19 June 1970 ; 3. Convention on the Grant of European Patents (European Patent Convention), Regulations and four protocols, done in Munich on 5 October 1973 ; 4. Convention for the European Patent for the Common Market (Community Patent Convention) and Regulations, made in Luxembourg on 15 December 1975” and art. 2(2) of the Act of 21 April 2007 “containing various provisions relating to the procedure for filing European patent applications and the effects of these applications and of European patents in Belgium”.
2. <sup>^</sup> See also art. 2(2) of the Act of 8 July 1977 “approving the following international instruments: 1. Convention on the Unification of Certain Points of Substantive Law on Patents for Invention, done in Strasbourg on 27 November 1963 ; 2. Patent Cooperation Treaty and Regulations, done in Washington on 19 June 1970 ; 3. Convention on the Grant of European Patents (European Patent Convention), Regulations and four protocols, done in Munich on 5 October 1973 ; 4. Convention for the European Patent for the Common Market (Community Patent Convention) and Regulations, made in Luxembourg on 15 December 1975”.
3. <sup>^</sup> Comp. art. 5 of the Act of 10 January 1955.
4. <sup>^</sup> Exposé des motifs, Sénat, sess. ord., 1952-1953, n° 447, p. 11.
5. <sup>^</sup> Rapport des commissions réunies des affaires économiques et des classes moyennes et de la défense nationale, Sénat, sess. ord., 1953-1954, n° 171, p. 3.

b) Does your law provide for granting of a foreign filing license or similar mechanism that would allow a patent application for an invention made in your country to be filed first in another country? Please describe any such foreign filing license or similar mechanism as well as the procedure, timing, and cost of obtaining it.

no

Please comment.:

Belgian law does not provide for such a mechanism.

c) If the answer to b. above is yes, is it possible to obtain a foreign filing license retroactively, for example, if a foreign filing was made without a foreign filing license due to inadvertent error?

no

Please comment.:

Not applicable (answer to b) above is no).

d) How does your law apply to an application for a patent claiming an invention that was made jointly by an inventor in your country and an inventor in another country? Does this apply based on the citizenship of the inventor, the residency of the inventor, or both? Does the nationality of the patent owner affect your answer?

The first two rules referred to above (art. XI.82(2) and 91(2) of the Belgian Code of Economic Law) only apply to applicants with Belgian nationality or having their domicile or registered office in Belgium. The place where the invention was made, as well as the nationality and residence of the inventor(s), are of no relevance.

A breach of the third rule referred to above (art. 1 of the Act of 10 January 1955) is a criminal offense contrary to the national security. Therefore, this rule applies not only to any disclosure on

the Belgian territory (by anyone)<sup>[1]</sup>, but also to any disclosure abroad by a person having the Belgian nationality or having its domicile in Belgium<sup>[2]</sup> or even by a foreigner<sup>[3]</sup>. Belgian criminal law also applies to criminal offenses partially committed on the Belgian territory, provided that one of the “material” constitutive or aggravating elements of the offense has been realized on the Belgian territory<sup>[4]</sup>.

**Footnotes**

1. [^ Art. 3 of the Criminal Code.](#)
2. [^ Art. 4 of the Criminal Code, juncto art. 6, 1° of the Act of 17 avril 1878 containing the preliminary title of the Code of criminal proceedings.](#)
3. [^ Art. 4 of the Criminal Code, juncto art. 10, 1° of the Act of 17 avril 1878 containing the preliminary title of the Code of criminal proceedings.](#)
4. [^ Cass., 23 January 1979, Pas., I, p. 582 ; Cass., 4 février 1986, Pas., I, p. 664.](#)

e) In the case of an invention made jointly by an inventor in your country and an inventor in another country, would it violate your law if a request for a foreign filing license was filed in the other country before being filed in your country?

yes

Please comment.:

Such request for a foreign filing license would not violate art. XI.82(2) and 91(2) of the Code of Economic Law, which only prohibit the *patent application* to be filed outside Belgium under the circumstances mentioned above. However, art. 1 of the Act of 10 January 1955 could be violated if the request for a foreign filing license filed in the third country discloses the invention (which is normally the case as the foreign IP office needs to assess the content of the patent application in view of their national criteria).

f) What are the possible consequences for failing to comply with this law? Does it matter whether the error was intentional or inadvertent?

The Act of 10 January 1955 provides that the author of the disclosure shall be punished with imprisonment from six months to five years and a fine of 3.000 to 30.000 Euros, or one of these penalties. If the disclosure has been caused by its negligence, he shall be punished with imprisonment of one month to one year and a fine of 600 to 6.000 Euros, or one of these penalties. These penalties should also apply to any breach of art. XI.82(2) and 91(2) of the Code of Economic Law, given that a patent application filed in violation of these provisions would constitute a disclosure contrary to art. 1 of the Act of 10 January 1955.

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?

yes

If yes please answer the following questions.:

a) Does this law depend on the area of technology that is disclosed and claimed in the patent application?

As to question 7 in general :

Belgian law does not require that a patent application claiming an invention made, at least in part, in Belgium undergoes a secrecy review or similar process *before it can be filed in another country.*

However, the Act of 10 January 1955 provides the possibility for the Minister of Defense to review any patent application upon its filing, in order to determine if specific measures need to be taken in order to ensure the defense of the territory or the national security.

As to question 7.a) in particular :

No, such review can concern any patent application, in any area of technology.

b) Describe this aspect of your law as well as the procedure, timing, and cost of compliance with it.

The Minister of Economy may bring any patent application, upon its filing, to the knowledge of the Minister of Defense, in order to determine if specific measures need to be taken in order to ensure the defense of the territory or the national security. The Minister of Defense may also, for the same purpose, take the initiative to review any patent application upon its filing. The specific measures that can be taken by the Minister of Economy and the Minister of Defense (jointly) can consist of a temporary prohibition to disclose the invention or the determination of temporary exploitation conditions. If it is established that temporary exploitation conditions are not sufficient to ensure the defense of the territory or the national security, other measures can be taken, such as a temporary prohibition to exploit the invention, a temporary right for the State to exploit the invention (on an exclusive or non-exclusive basis) or the obligation for the applicant to provide the State with a complete knowledge of the invention. According to the information provided by the Belgian IP Office, such secrecy review is extremely rare in Belgium.

If a patent application undergoes a review by the Minister of Defense, the applicant is informed without delay. From that moment, he is prohibited, unless expressly authorized, to disclose the invention claimed in the patent application, which includes a prohibition to file a patent application abroad, to assign the rights to the application or to grant a license. If needed, the grant of the patent can be suspended. Within three months, the Minister of Defense informs the Minister of Economy, whether or not specific measures as indicated above must be taken. A decision must be taken by the Ministers jointly within six months after the filing of the patent application. Such decision must be notified to the applicant without delay.

During such review and thereafter for the duration of the prohibition to disclose the invention, if such measure has been taken, the administration is obliged to ensure the secrecy of the patent or patent application.

As the patent prosecution is suspended during the review and thereafter when non-disclosure measures have been taken by the Ministers, the patent application will not be published nor can the request for the novelty search and the corresponding written opinion be submitted. Once the prohibition is withdrawn, the applicant can submit this request by paying the search fee within 13 months.

Even if the patent prosecution is suspended, the patent applicant must still pay the maintenance fees due to keep the patent application alive.

Although the patent application is placed under secrecy, the patent applicant can, upon authorisation by the Ministers, use his patent application to claim conventional priority if filing in those countries with whom Belgium has concluded an agreement in this respect. These countries will then also place their national patent applications, claiming priority from this Belgian patent application, under secrecy according to their national procedures. Such an agreement exists among the NATO member states<sup>[1]</sup>.

The measures referred to above (including the limitations applicable during the review) may be withdrawn partially or totally at any time, by a joint decision of the Ministers. This withdrawal may be requested by the patent applicant or owner.

The patent applicant who has been subject to such measures has the right to obtain a compensation. The same applies to the patent owner who has been subject to specific measures, such as temporary exploitation conditions, after grant of the patent.

#### Footnotes

1. [^](#) *Agreement for the mutual safeguarding of secrecy of inventions relating to defence and for which applications for patents have been made, signed in Paris on 21 September 1960.*

- c) Describe the possible consequences of failing to comply with this law. Does it matter whether the error was intentional or inadvertent?

The Act of 10 January 1955 provides that the author of a disclosure contrary to the measures referred to above (during the review or thereafter) shall be punished with an imprisonment of six months to five years and a fine of 3.000 to 30.000 Euros, or one of these penalties. If the disclosure has been caused by someone's negligence, this person shall be punished with an imprisonment of one month to one year and a fine of 600 to 6.000 Euros, or one of these penalties. Breaches of the other measures referred to above (decided after the review) are punished by an imprisonment of one month to one year and a fine of 600 to 6.000 Euros, or one of these penalties.

## 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?

As indicated above, Belgian law does not define inventorship. This definition is given by the Belgian case law and the legal literature. A legal definition of inventorship, if possible harmonized at the international level, is desirable to help applicants and patent attorneys.

- 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?

It can be difficult for an applicant to assess whether an invention is of relevance for the defense of the territory or the national security. Given the criminal sanctions applicable in case of breach of the rules referred to under question No. 6, clear guidance should be available. In particular, the influence of the multinational character of the invention on the assessment should be clarified. It should be possible for the applicant to know with a sufficient degree of certainty if the patent application can be filed abroad without breaching these legal provisions.

In addition, given their broad scope *ratione personae* and the fact that they are not necessarily based on the same criteria as in other countries (nationality or residence of the inventors, place where the invention was made, etc), the provisions referred to above are likely to apply in situations where first filing requirements imposed by foreign countries apply cumulatively. In the absence of harmonization, the following aspects of Belgian law should at least be improved:

- A statutory possibility to obtain a foreign filing license from the Belgian IP Office (or from the Ministers) should be foreseen.
- It should be foreseen that the application filed abroad for a foreign filing license does not constitute a breach of art. 1 of the Act of 10 January 1955.



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?

As stated above, the secrecy review is not automatic in Belgium. Only patent applications that are specifically identified by the Minister of Defense will be subject to a review and, during such review, to a prohibition to file a patent application abroad.

The problem of this system is that foreign patent applications may already have been filed before the Minister of Defense had the time to realize that the invention at stake could be of relevance for the defense of the territory or the national security. This could lead to sanctions based on art. 1 of the Act of 10 January 1955 if it can be established that the applicant should have known that the filing of the patent application abroad was contrary to the interests of the defense of the territory or national security (see above).

The Belgian workgroup proposes to foresee an automatic prohibition to file abroad during a short period of time (7 days for instance), but only if the Belgian patent filing was the first filing. Unless an objection is raised, subsequent foreign patent filings should be allowed.

In addition, multinational inventors should also be allowed to exchange texts with foreign patent attorneys on a confidential basis during the secrecy review.

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.

The question raises the issue whether the system of first filing requirement and secrecy review at national level is not outdated. It is suggested that the defense of the territory and the national security can be ensured through other means.

If this system is not abolished, it should at least be harmonized at international level (see below). Competing first filing requirements should be avoided, as well as competing secrecy reviews.

The secrecy review could be performed by a central administration common to several countries (for example, NATO).

Foreign filing licenses should be available in any case.

### III. Proposals for harmonisation

12) Is harmonisation in this area desirable?

yes

Please comment.:

See below for more details.

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.

Any person who has delivered a creative and substantial contribution to the invention as claimed should be considered as an inventor.

- 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).

The patent applicant or owner should always have the right to file a request for correction of inventorship, whether the error was intentional or unintentional. The requirements for the registration of such correction should be merely formal. All inventors (including those added and/or cancelled in the requested correction) should be notified without delay.

In case the correction is challenged, then a claim should be filed before a court, either by an inventor (alleged or designated) on the basis of its moral right or, in case the correction has a consequence on ownership, by the interested owner (alleged or designated) via entitlement proceedings. The filing of such claim should be registered by the Office. If the patent has not been granted yet, the grant procedure should only be suspended in case of entitlement proceedings.

Such correction proceedings should not per se affect the validity or enforceability of the patent.

- 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.

The Belgian working group is of the opinion that a first filing requirement does not need to be maintained.

However, if it had to be maintained, it should be harmonized at international level and based exclusively on the nationality or registered office of the applicant. If there are several applicants, it should only apply to the first applicant mentioned in the patent application. If the applicant has several nationalities or registered offices in multiple countries, he should be able to choose between them to determine where to file first. In order to avoid problems, the nationality or domicile of the inventors should not be taken into account, nor the place where the invention was made. The first filing requirement should not be limited to a specific technology.

- 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.

Implementing such an international standard, would conflict with the sovereignty of each country in defining what, for that country, secrecy is and whether non-disclosure measures have to be taken with regard to a particular invention.

However, it should be avoided that several countries perform a secrecy review of the same invention. One single secrecy review should be performed by the country where the patent application has been first filed according to the rule proposed under question No 15.

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

If the system proposed above were to be adopted, there would be no objective necessity for a system of foreign filing license, as there would never be two competing first filing requirements.

However, the system could be maintained to offer applicants the possibility to first file in a country other than their country of nationality. Each country could determine its own standard for obtaining a foreign filing license.

If the system proposed above was not adopted, it should at least be ensured that any country with a first filing requirement automatically proposes the possibility to request a foreign filing license.

Each country should also provide that a request for foreign filing license filed abroad does not constitute a breach of the first filing (or disclosure) requirement. Each country could establish a list of "allied" countries (at least at some levels, such as at the EU level) for which the foreign filing license should be automatically granted if the administration does not react within a very short time period (7 days for example).

- 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.

If the applicant omitted to request a foreign filing license, he should be able to request such a license with retroactive effect if he can establish that the failure to file the request on time occurred in spite of all due care required by the circumstances having been exercised.

- 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.

Not applicable.

#### Summary

In Belgium, **inventorship** is only defined by the case law and legal literature. This can lead to practical difficulties. An harmonized definition of inventorship is desirable.

In Belgium, **corrections** of inventorship are admitted during and after the grant procedure. Such corrections are without consequence on the validity or enforceability of the patent. This could become an international standard.

In Belgium, there is no **first filing requirement** based on the place where the invention was made. However, Belgian law contains a very broad provision that prohibits the disclosure of inventions if such disclosure is contrary to the interests of the defense or national security. Any foreign patent application and any application for a foreign filing license filed abroad could fall within the scope of this provision. This legal provision should be abolished or clarified. If first filing requirements are not abolished, an international standard ensuring that only one such requirement applies in each case should be adopted, e.g. based on the nationality or registered office of the applicant. In the absence of such standard, it should be ensured that applications for foreign filing licenses are always possible.

**Secrecy review** is not automatic in Belgium. However, the Minister of Defense has the right to submit any Belgian patent application to such review, in which case any disclosure, including a foreign filing, is forbidden, unless expressly authorized. The grant procedure of such patent application is suspended for the duration of the review and thereafter in case of secrecy order. If secrecy review is not abolished, it should at least be ensured that it is only performed by the country of first filing.

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

Not applicable.

AIPPI