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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?

According to the Bulgarian Law on Patent and Utility Models Registration (the Law) both persons A and B will be considered as inventors. The inventor shall have the right to be mentioned in the patent application as well as in the publication of the patent invention. This right is personal and non-transferable<sup>[1]</sup>.

However, the Bulgarian Patent Office has a right ex officio to see that the inventor (joint inventors) is mentioned in the application or the patent.

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<sup>[1]</sup> Article 3 of Law on patent and utility models registrations (title amended, State Gazette No.64/2006)

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:

Bulgarian Patent Law does not define inventorship rely on or look to a particular part of the patent application. This matter may be subject of a private agreement between all inventors, where the contribution of each of them may be determined on a claim by claim basis, determined on the content of the drawings or examples, or determined.

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

no

Please comment:

The Bulgarian law does not depend on the citizenship of the inventor(s). Any person qualified as an inventor shall have the right to be mentioned in a Bulgarian Patent Application.

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:

The Bulgarian law does not provide any restrictions in respect to where it was made the invention.

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?:

According to the Bulgarian Law, the inventorship can be corrected either:

1/ during the examination proceedings in the application until such time as a decision is taken;

2/ or in disputes to determine the true inventor(s). Such disputes are heard by the Sofia City Court. Based on the enforceable court decision, the Patent Office shall enter the name of the inventor or inventors on the granted patent.

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 is not any requirement in the Law an application to be invalidated or rendered not enforceable on that basis of an error in the stated inventorship on a patent application.

All disputes concerning the determination of the true inventors are a subject of court claim before Sofia City Court. If the dispute is raised during the examination proceeding of patent application, the Court will stop the proceeding until the Patent Office granted a decision of the patent application. According to Bulgarian Law based on the enforceable court decision, the Patent Office shall enter the name of the inventor or inventors on the granted patent

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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:
	The Bulgarian Law does not provide an application for patent claiming invention in only one technical area or in all technical areas to be filed first in our country.

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.
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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?
	No, the secrecy does not depend on the area of technology that is disclosed and claimed in the patent application

b)	Describe this aspect of your law as well as the procedure, timing, and cost of compliance with it.
	<p>According to the Bulgarian Law each application filed with the Bulgarian Patent Office by a Bulgarian applicant, resident or having business place in Bulgaria, including PCT applications, undergoes in a one month period after filing a secrecy review for classified information<sup>[1]</sup>. The applicant whose application does not undergo the secrecy review, may continue the procedure as secret application.</p> <p>At the present moment the Law provides a special separate group of patents, so called "Secret patents" under special claim of the applicant for secrecy of its application. For such applications/patents any publication is not provided. For filing, examination, granting and maintenance of a secret patent any official fees are not provided. Only formality examination is provided. The patent which undergoes the formal requirements, receives a granted number and only this number shall be published without any other bibliographical data. Periodically all secret applications/patents undergo secrecy review and the level of secrecy may be removed. The authorities competent to determine the information security classification level and to remove the level of classification of secret applications/patents shall be the Ministry of the Interior and the Ministry of Defence.</p> <p>The applicant shall be invited to pay in three months term publication, issuance and all maintenance fees of a patent which secrecy level has been removed. After publication, the patent becomes a part of state of the art. The applicant may file a request for search and examination</p> <p>Where the application has been filed as a secret patent application and, after the examination, no</p>

security classification level has been determined by the competent authorities, the Patent Office shall inform the applicant that the application contains no secret invention and shall ask for his express consent for the application to be examined in accordance with the ordinary provisions. In case no such consent is received within three months, the application shall be deemed to be withdrawn.

The procedure of determining the information security classification level and removal thereof with respect to applications and secret patents is specified in a Secret Patents Regulation adopted by the Council of Ministers. This Regulation regulates the procedure for determining the presence of classified information and the classification level of information security and the removal of the security classification contained in the applications for grant of patents, hereinafter referred to "secret orders" and "secret patents".

[1][#\_ftnref1] *Article 25 of Bulgaria Law "Bulgarian citizens with a permanent address in the Republic of Bulgaria or legal persons with a principle place of business in the Republic of Bulgaria shall have the right to seek patents for their inventions abroad after the examination referred to Article 45a ).*

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

According to the Law, where the application has been filed as a secret patent application and, after the examination, no security classification level has been determined by the competent authorities, the Patent Office shall inform the applicant that the application contains no secret invention and shall ask for his express consent for the application to be examined in accordance with the ordinary provisions. In case no such consent is received within three months, the application shall be deemed to be withdrawn.

## 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?

Bulgarian Patent Law does not define inventorship. According to our opinion it will be better the inventorship to be mentioned in the Law, that the relationships between the inventors are subject of inventorship agreement.

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?

The Bulgarian Law does not provide an application for patent to be filed first in our country

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?

According to the Bulgarian Law we do not see any aspects that could be improved to address multinational inventions.

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.

According to the Bulgarian Law we do not see any aspects that could be improved to facilitate filing of patent applications having multinational inventions.

### III. Proposals for harmonisation

12) Is harmonisation in this area desirable?

no

Please comment.:

The Bulgarian Law is harmonized to a satisfactory extend as regards multinational inventions.

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.

N/A

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).

N/A

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.

N/A

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.

N/A

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

a foreign filing license.
N/A

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.
	N/A

Summary
<p>The inventorship is defined in the Bulgarian Law on Patent and Utility Models Registrations (the Law) adopted in 1993 with last amendments in 2012.</p> <p>The determination of inventorship hinges upon two points:</p> <ul style="list-style-type: none"><li>• An inventor is a person who contributes to the conception of an invention;</li><li>• Two or more persons who collaborate to produce the invention through aggregate efforts.</li></ul> <p>However, according to the Bulgarian Supreme Court practice (Preliminary ruling decision No 6 from 1979) inventor, accordingly co-inventor is not the person/s who just manages the organisation/firm which provides materials, technics or premises to the inventor/s, as well as person/s that only provide technical support of the inventorship process.</p> <p>According to the Law, the inventor is considered as the person who has made an invention. If the invention was made by several persons, the latter shall be recognized as joint inventors.[1][#_ftn1]</p> <hr/> <p><b>[1][#_ftnref1]</b> Article 2 of Law on patent and utility models registrations (title amended, State Gazette No.66/2002)</p>

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