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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?

The Egyptian Intellectual Property Law No. 82 of 2002 ("IP Law") does not define the "inventor". Article 6 of the IP Law states that the right to the patent shall belong to the inventor or his successor in title; and if two or more persons have jointly made an invention, the right to the patent shall belong to them jointly and equally, unless they have agreed otherwise. A person directing the efforts of an inventor without actual contribution to the invention may not qualify as an inventor. In the present case, person B would always be named an inventor and person A would only be named an inventor if he/she creatively contributed to the invention.

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 IP does not provide details on how to define inventorship. It is determined by the

Patent Office looking at the invention as a whole including claims, drawings and other elements of the patent application.

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

no

Please comment:

The IP Law does not make inventorship dependant on the citizenship of the inventor(s).

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:

No, the IP Law does not make inventorship dependant on where the invention was made. However, according to Article 4 of the IP Law, any natural or juridical person whether Egyptian or foreigner who belong to or have business in a WTO member State or in a State that reciprocates with Egypt may benefit from the provisions of the IP Law including the right to file patent applications with the Egyptian Patent Office. This relates to who can apply for a patent application and benefit from the IP Law.

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?:

Yes, the inventorship of a patent application can be corrected after the filing date in Egypt, by adding an inventor.

By using a legalized declaration letter from the inventors. There is no time limit for doing so.

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 case of an error in the stated inventorship on a patent application in Egypt, the Egyptian Patent Office or any concerned party may request from the Administrative Courts to add information to the patent applications that was omitted or to amend any incorrect information or to delete incorrect information. This applies to stated inventorship. In addition, under general rules, the person entitled to be named as inventor may also have a cause of action for compensation against the applicant, particularly if the error was intentional.

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:

No, the IP Law does not require than an application claiming an invention made in Egypt be filed first in Egypt.

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:

No, the IP Law does not require than an application claiming an invention made in Egypt undergo a secrecy review or similar process before it can be filed in another country.

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?

The IP Law does not define inventorship. It is suggested that the law should be amended to define inventorship and provide some guidelines in this regard.

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 IP Law does not require first filing.

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?

The IP Law does not require a secrecy review for an application claiming an invention made in Egypt before it can be filed in another country.

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.

Generally, the IP Law can be amended to provide definitions for inventorship and joint inventorship. This will facilitate filing of patent applications whether or not having multinational inventorship.

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.
	An effective contribution in the work leading to the inventorship.

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).
	A sworn declaration of the inventors stating that the omitted inventor was part of the working team and is entitled to inventorship. There should not be any timing requirements in this regards.

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 are not of the opinion that first filing should be required, particularly with the increase of multinational inventorship, and the difficulties, efforts and costs involved with complying with such requirement.

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 are not of the opinion that first filing should be required. In addition, secrecy review requirements in particular are difficult to harmonise as these relate mostly to military and defense technologies and each jurisdiction will insist on maintain its standards.

17)	If you believe such a requirement is appropriate, please propose an international standard for obtaining a foreign filing license.
	We are not of the opinion that obtaining a foreign filing license should be required, particularly with the increase in multinational inventorship, and the difficulties, efforts and costs involved with complying with such requirement.

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.
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In cases of multinational inventorship, if two more countries have laws requiring first filing or secrecy reviews whereby the applicant would be violating the laws of one or both of the jurisdictions, it is proposed that in these cases the laws of each jurisdiction contain an exception from the requirements provided that the application is first filed or subjected to secrecy review in the other jurisdiction(s) having the same requirement. Although we note that this proposition is not likely to be accepted by many jurisdictions, particularly the secrecy review requirement.

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

Summary

The Egyptian Intellectual Property Law No. 82 of 2002 (“IP Law”) does not define the “inventor”, “joint inventors” or “multiple inventorship”. The Egyptian Patent Office currently looks at the invention as a whole. We are of the opinion that the IP Law should be amended to include definitions for these terms. The IP also does not make inventorship dependant on the citizenship of the inventor(s) or where the invention was made.

Inventorship of a patent application can be corrected after the filing date in Egypt through a legalized declaration from the inventors and there is no time limit to do so. Errors in inventorship can be corrected by an application with the competent courts. Intentional errors may subject the application to compensation.

The IP Law does not have first filing or secrecy review requirements as defined in the Working Guidelines.

Generally, the IP Law can be amended to provide definitions for inventorship and joint inventorship. This will facilitate filing of patent applications whether or not having multinational inventorship.

As international joint inventorship is becoming a common place, harmonization in this area is desired. Harmonisation should cover the definition of inventorship and multinational inventorship, standards for correcting errors in inventorship, regulation of first filing and secrecy review requirements to avoid violations of one jurisdiction’s laws to comply with another’s.

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

N/A