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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 notion of inventorship and co-inventorship is foreseen in Greek law No. 1733/1987, Art. 6, that states that "the right to a patent shall belong to the inventor or to the beneficiary in accordance with paragraphs 4, 5, and 6 and to his/her general or special successors in title", without providing a concrete definition of the inventorship. The same article further defines co-inventorship as the situation in which "two or more persons have made an invention jointly, provided that there exists no other agreement" and regulates the inventorship in the employer-employee relationship, making a clear distinction between free inventions, services inventions and dependent inventions.

If the person B only follows directions issued by the person A, without a parallel development of individual contribution that has led to the invention, then only the person A is considered to be the inventor under Greek law and practice. However, if the person B has contributed creatively to the invention, either as a whole or in part of it, then both persons will be considered to be joint inventors.

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:

Greek law does not determine inventorship on a claim by claim basis, or on the basis of the drawings, the examples or other part of the invention.

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

no

Please comment:

The law of inventorship is applied in accordance with the principle of territoriality and the lex loci protectionis. However, Greek law foresees a first filing requirement when the inventor is a Greek citizen.

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:

According to the Greek lex fori, the law of inventorship depends on the place where protection for the invention is sought, i.e. where a patent has been applied for (principle of territoriality).

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

no

If no please comment:

No correction of the applicant(s) and the inventor(s) name is possible after the filing in the national patent procedure.

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 the case of an (obviously intentional) error in the stated inventorship on a patent application, the true inventor may request his/her recognition as the true inventor and/or patent owner by filing a relevant action before civil courts.

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:

Greek law requires that any invention made by a Greek citizen -either in Greece or abroad- be filed in Greece first, independent of the specific area of technology concerned.

If one of more inventors claiming an invention is a Greek citizen, he/she has to file the patent in Greece first, in order to comply with Greek patent law requirements.

Greek law does not explicitly include any provision regarding the request by a Greek citizen in another

country for a foreign filing license. However, if an invention concerns national defence issues, any information or announcement concerning this invention in a foreign country is prohibited by law and any person who does not comply with this prohibition is liable under criminal law.

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:

A patent application has to undergo a secrecy review, if the invention has been made by a Greek citizen. The place of residence and the place where the invention has been made is irrelevant.

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?

Greek law does not provide for a concrete definition of inventorship, with the exception of inventions made by employees. The courts have developed, though, general guidelines as to the inventorship. It is therefore suggested that a concrete definition be introduced, in order to clarify the issue.

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?

Greek laws could provide specific guidance as to how multinational inventions should be dealt with, if more than one applicable jurisdictions have a first filing requirement.

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?

Greek laws could provide specific guidance as to how multinational inventions should be dealt with, if more than one applicable jurisdictions have a secrecy review requirement.

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.

Not applicable.

III. Proposals for harmonisation

12)	Is harmonisation in this area desirable?
	yes Please comment.:
	The harmonization is desirable in this area, as this is the only way to resolve the complicated issues that are raised from the multinational collaborations that lead to the invention

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.
	A common definition should include the intellectual contribution to the invention, thus excluding from the definition mere common ideas that do not lead necessarily to the invention, as well as the execution of the instructions provided by another person.

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).
	It should be possible to correct the inventorship by providing a relevant declaration by all applicants within the four months period foreseen by Greek law for the completion of the patent application or other equivalent pendency time limits. It goes without saying that such an "amicable" correction should only be possible in the case of unintentional errors. Intentional errors should only be dealt with in the course of a court procedure, as this is also foreseen under the current Greek law regime.

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 believe that an international standard for first filing requirements for multinational inventions is necessary, in order to resolve possible conflicts. We are of the opinion that this would only be possible either in the form of bilateral agreements or with the implementation of a joint filing mechanism with the cooperation of patent offices in different jurisdictions.

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 think that setting an international standard for secrecy review requirements would be easy or even desirable, considering that these requirements concern the sovereignty of each country.

17)	If you believe such a requirement is appropriate, please propose an international standard for obtaining a foreign filing license.
	We do not think that harmonization in the field of the granting of a foreign filing license could be easy.

We deem it more appropriate to have an international standard for first filing requirements, as explained above under 15.

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.

Curing or repairing an inadvertent failure to comply with a first filing requirement or a security review requirement with a retroactive effect is not possible according to our opinion, as it is contrary to the nature of the relevant obligation. However, we believe that any possible consequences, such as criminal liability, should be milder in case of unintentional failure/omission.

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

A concrete definition for inventorship should be introduced into Greek law. Furthermore, specific guidance should be provided as to how multinational inventions should be dealt with, if more than one applicable jurisdictions have a first filing or a security review requirement.

The harmonization is desirable, in order to resolve the complicated issues raised from the multinational research collaborations. A harmonized definition should include the intellectual contribution to the invention, thus excluding mere ideas that do not lead necessarily to the invention, as well as the mere execution of instructions.

It should be possible to correct the inventorship by providing a relevant declaration by all applicants within the pendency time limits. Such an "amicable" correction should only be possible in the case of unintentional errors. Intentional errors should be dealt with in the course of a court procedure.

An international standard for first filing requirements for multinational inventions is necessary, possibly either in the form of bilateral agreements or with the implementation of a joint filing mechanism with the cooperation of patent offices in different jurisdictions.

Setting an international standard for security review requirements or in the field of the granting of a foreign filing license may not be easy or even desirable, considering that these requirements concern the sovereignty of each country.

Curing or repairing an inadvertent failure to comply with a first filing or security review requirement with a retroactive effect may not be possible. However, possible consequences should be milder in case of unintentional failure.

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