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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?

There is no specific provision on the type or scope of contribution to the Invention. The article only stipulates "**acting together implementing an idea ...**" and "**... produced jointly...**" However, based on the situation above, according to Indonesian Patent Law, both parties may agree they are the Inventors; or Person A can be considered as the Inventor since person A directs the efforts of Person B, unless agreed otherwise by Person A; and Person B considered as the Inventor (*Article 1 of Patent Law of Republic Indonesia No. 14/2001: (3) Inventor is a person or several persons acting together implementing an idea poured in an activity resulting in an invention.*

Joint of the inventorship point of view:

*Article 10 point (2) of Law No. 14/2001 regarding Patent:*

*"If an Invention is produced jointly by several persons, the right on the Invention shall belong to the relevant Inventors".*

*Article 11 of Patent Law of Republic Indonesia No. 14/2001:*

*"Unless proven otherwise, those who are firstly declared as the Inventor in the Application shall be*

*deemed to be the Inventor”.*

*Based on Indonesian Patent Law, No detail explanation about definition of joint inventorship/multinational invention which includes: first filing requirement, foreign filing licenses nor secrecy review.*

*No definition sufficient to provide patent applicants with clear guidance about multinational 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:

Inventorship is defined based on the patent as a whole.

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

yes

Please comment:

Article 24 para (2) letter c, requires applications to specify the full name and nationality 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:

There is no requirement on where the Invention was made.

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?:

Amendment of filing particulars, including inventorship is possible before grant of the patent, by filing a request for amendment and payment of the relevant processing fee and supported by a Statement of Change of Inventorship.

Article 23 para (1) of Patent Law of Republic Indonesia No. 14/2001 stipulates that:

*“If an application is filed by a person other than the Inventor, the Application must be furnished with a statement with adequate supporting evidence that he is entitled to the said Invention”.*

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 no specific provisions regulating this situation. However, the possible consequences are that

the true inventor may submit an objection regarding the inventorship supported by strong evidence showing that he is the true inventor.

A patent issued from such an application can be invalidated through Commercial Court.

It is matter 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?

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.:

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.

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.

yes

Please comment.:

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.

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.:

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?

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?

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

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. If yes, does this law depend on the area of technology that is disclosed and claimed in the patent application?
	b. If yes, describe this aspect of your law as well as the procedure, timing, and cost of compliance with it.
	c. If yes, describe the possible consequences of failing to comply with this law. Does it matter whether the error was intentional or inadvertent?
	Policy Considerations and Proposals for Improvements of the Current Law

## 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 Indonesian Patent Law provides a broad definition of inventorship, with no distinction in regards to the scope of contributions. Hence, in the case of several persons are involved in the process, all of them shall be named as Inventors.

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?
	Non applicable

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?
	Non applicable

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.
	Multinational inventorship in a Patent application is possible in Indonesia.

## III. Proposals for harmonisation

12)	Is harmonisation in this area desirable?
	no
	Please comment.:
	It is unforeseen within the next five years.

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.

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).

If an application is filed with a wrong inventor, the Application must be corrected by furnishing with a statement supporting evidence that he is entitled to the said Invention (for unintentional error) during the pendency of the application.

If the error is intentional, the true Inventor may file a lawsuit to the Commercial Court to have his name included in the Patent Certificate (violation of moral rights) during the pendency of the application or after patent is granted.

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.

In the case of multinational inventions, the patent application claiming inventions might be filed first in any of the countries agreed by multinational inventors.

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.

For those inventions which relate to certain technology areas that are considered national secrets, or if it otherwise impacts national security, prior to a patent application being filed in another country, should undergo a secrecy review. Failure to comply with this requirements may result in loss of patent rights.

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

Not 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.

Failure to comply with a first filing requirement, the Applicant may submit appropriate documents with payment of fine.

Failure to comply with a security review requirement, may result in loss of patent rights.

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.

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Summary

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

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