

**CONVERGENCE OF PRACTICE**  
**WORKING GROUP 2 – DESIGNATION OF THE INVENTOR**  
**THIRD MEETING**  
**DISCUSSION PAPER**

## **1. Introduction**

The working group has established the existing practices of the participating offices regarding the designation of the inventor and has identified two areas for convergence of practice: the notification of the inventor and the publication of inventor data.

It is proposed to discuss in the working group's third meeting on 9 June 2020 proposals for alignment in these areas on the basis of the suggestions set out below.

## **2. Abolishing the notification of the inventor**

On the basis of the results of the questionnaire and the comments received during the first two meetings, apart from a few reservations, there appears to be willingness to agree on a common practice whereby, in accordance with the practice followed by the vast majority of the participating offices, inventors would not be notified of their designation by means of a specific communication.

This option reflects the significant progress that has been made in making information about patent applications accessible online to the general public, including inventors. Furthermore, it takes into account the national laws on employee inventions which require the employer as patent applicant to inform salaried inventors about the filing of patent applications and the progress of the patent grant procedure.

In view of these considerations, the first draft proposal for a recommendation of a common practice concerning the notification to the inventor is submitted as a basis for further deliberation in the third meeting of the working group (point 4 below).

## **3. Possible options for limiting the publication of inventor data**

With regard to the publication of inventor data, the results of the questionnaire as well as the comments received during the working group's meetings have shown

that the practices of the participating patent offices are more varied. While several offices already offer possibilities to limit the publication of inventor data, the scope and the procedure differ considerably among the offices.

In particular, with respect to the publication of the inventor's personal address data, 9 out of 19 offices limit the publication of that data in the register from the outset. While the remaining 10 offices initially publish the inventor's full address data, some of these offices offer possibilities to further limit the published data in the form of waivers throughout the patent grant procedure. A common practice in this area would thus be very beneficial to the users of the European patent system.

The following options are presented for further discussion at the third meeting:

A. Exclusion of address data from the public register

As a first option, it could be considered to limit the publication of inventor data to family name(s), given name(s), and city and country of residence. The inventor's full address would not be made public in the patent registers. Sufficient information would be maintained in the register to allow the inventor to be identified, while ensuring a certain level of data protection.

It is to be noted that in most cases the inventor's address would remain visible through file inspection. While the inventor's address could therefore still be retrieved from the file with some additional effort, there would nevertheless be an additional layer of protection of inventors' data.

B. Provide inventors with more discretion about which information is to be provided and published

As a second option, an indication of the inventor's family names(s) and given name(s), country and city of residence could be defined as minimum mandatory information to be provided when submitting the inventor designation. In addition, the inventor could optionally decide whether to also provide an address. Whatever information would be submitted would then be published in the patent register and made visible through inspection of the public file. This way, inventors would be put in a position to decide whether or not they would like their full address data to be published.

Assuming that the inventor is no longer informed of his designation by the competent patent office (see point 2 above), the address will no longer be needed for notification purposes and could thus be declared as optional information. A

discrepancy between the publicly accessible content of the register and that of the public file as in option A could be avoided. The inventor's address would be visible via both sources only if submitted on a voluntary basis in the designation.

C. Provide inventors full discretion about the data to be published

Alternatively, based on considerations similar to those under option B, inventors could be given entire discretion to decide on the level of information they would like to have published in addition to their name, by providing only the data they would like to be publicly available. An indication of the name would however still remain mandatory, but the indication of the full address, country and place of residence would be optional.

The possibility to waive entirely the right to be mentioned, if already available, could still be used for all options.

**4. Draft recommendation of a common practice concerning the designation of the inventor**

“Having due regard to the moral rights of inventors under Article 4<sup>ter</sup> of the Paris Convention and Article 62 EPC to be designated as such in patent applications;

taking into account the expanding possibilities to access patent information online;

considering the existing legal framework of the majority of the Contracting States not requiring a notification to the inventor;

taking into account the existing legislation on employee inventions in some Contracting States, requiring the employer as patent applicant to inform salaried inventors about the filing of patent applications and the progress of the patent grant procedure;

considering the requirement for administrative simplification; and

having regard to the interest of some inventors to limit the publication of private address data while remaining mentioned as inventor;

the Contracting States participating in Working Group 2 have agreed to recommend the following common practice regarding the designation of the inventor for adoption by the Administrative Council:

- inventors are not formerly notified by patent offices about their designation in a patent application; inventors can instead obtain information about their designation through inspection of the patent register, file inspection and from the applicant;”

The draft recommendation of a common practice will be extended taking into account the outcome of the discussions concerning the options for limiting the publication of inventor data under point 3 above.