

Comments of David Martinez to the USPTO

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office [Docket No. PTO-C-2013-0039]

Subject: Diversity of Patent Applicants

To Whom It May Concern:

In searching the means to apply for a grant for my inventions, I came across this request for information on your study regarding Diversity of Patent Applications. An attempt to understand H.R. 1249 (112th): Leahy-Smith America Invents Act but may not be fully aware of all its implications.

My 40 years of technical and marketing experience with a well known multinational company seems to be going to waste at a time I should be enjoying the fruits of my labor. My assumption at this point is that I am an eligible party to the changes proposed in H. R. 1249. I am 76 years old, and considered Hispanic but what worries me at this time is my first application, not yet submitted and the backlog of applications in the queue not to mention the subsequent 12 or more I have. I have consulted a patent attorney several times and I have been delayed do to the economy and my health. I am recovering nicely. The patent I am working on, a new musical acoustic drum (Membranophone) like none marketed satisfying the musicians needs, not the manufacturers. I don't know if I will live long enough for the first one to be granted assuming there is no prior art. So while not directly mentioned, my thinking is there should be a mechanism for advancing the priority for the diversity you are seeking and age should be a major factor including young inventors shown on national news that amaze me. The disparaging thing is the political climate at a time when our economy is improving. It seems our politicians are completely unaware of the consequences of their actions and don't have the remotest knowledge of the suffering many older persons whose incomes (401K's or IRA's) take a hit while Wall Street executives are making a fortune at the tax payers expense. Washington politics is holding back progress on jobs. I do not wish or have the capital to start a business and want to provide companies exclusive right and to join in on the patent. My business plan marketing analysis indicates this single product could employ 50 or so persons based my studies.

The following is my response for the request of information:

(1) How and by which methods should the USPTO effectively study patent applicant diversity in accordance with the expressed intent of Congress in Section 29 of the AIA?

Ask the questions on the patent application of the inventor/s age, ethnicity, handicap, and etc. or on a voluntary basis if normally not allowed. The US census is one means, this letter and others like it and or zeroing in on these minority groups. Today, almost on a daily basis, PBS news hours have guests from universities or private firms that study the demographics of the decline on the middle class, also a minority. In addition, there are directories for manufacturers that provide their location and other important financial and personnel data regarding the companies such as Hoover's a D&B company that I used to get marketing data.

(2) Should the USPTO conduct surveys of patent applicants to obtain demographic data such as race, gender, age, and geography, of inventors as a group?

Absolutely, I think this is an imperative. See my first sentence above and the comment before the survey.

Aside from surveys, how can the USPTO effectively collect personal identifying information about U.S. and non-U.S. patent applicants in order to study applicant diversity through improved data matching, analytics, and studies?

I am delighted that you ask this question; within my marketing plan there are a number of companies that I want to contact that are not American. On the other hand, I want my inventions to be made in America so these companies are on the top of the list. Fortunately, the foreign companies have facilities in the US and I do not wish to deal with Chinese firms due to their demonstrated behavior on intellectual property.

a) Should the USPTO collect certain personal identifying information about U.S. and non-U.S. patent applicants on a mandatory basis or on a voluntary basis? How would each of these approaches affect the accuracy of the information being provided?

This was addressed in your first question. I think voluntary would make the applicant more secure about privacy but an explanation of why the information is needed should ease the inventor's regard for the question. On the other hand, a falsely answered mandatory question may or would disqualify an applicant if he or she lies.

(b) Can USPTO effectively collect personal identifying information from other institutions or organizations about U.S. and non-U.S. patent applicants?

This is an ironic question for as an inventor, after getting an idea and a preliminary drawing I then go to Google Patent or USPTO for prior art. Within the prior art, there is a ton of information about the inventor and the company they may be sharing the patent with. The companies such as Hoover's a D&B company mentioned above provide the answer to many questions I used to get marketing data. Secondly, I can reduce the cost of my attorney by doing my homework as I have a very limited budget bordering on a high-risk project. All patents are high-risk projects.

(3) What particular personal identifying information should the USPTO seek (or not seek) in order to more effectively study applicant diversity? Why?

My thinking is there are no boundaries I can think of. For example in this response, at first thought, I would hold giving my phone number, a private number.

Why? After great thought, I realized holding it back would limit me from a possible favorable query response that may help me.

Thank you, for the privilege to respond,

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Sincerely,

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