

From: dbb@fdml.com
Sent: Friday, July 18, 2003 1:44 PM
To: Unity Comments
Cc: Susan.Orloff@calbar.ca.gov; mgallenson@LadasParry.com
Subject: Results of Survey of Intellectual Property Section of the State Bar of California
 Commissioner for Patents
 Mail Stop Comments
 PO Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

The Intellectual Property Law Section of the State Bar of California recently completed a survey of our membership regarding the proposed implementation of a Unity of Invention standard by the United States Patent and Trademark Office. We sent an email message to our members with a link to the USPTO website containing the Notice and included a series of Yes/No questions to be answered relating to the proposal. We asked that the responses be forwarded to the us at the State Bar of California.

We are providing you with the questions asked and unedited results of the survey for your information. We hope that our efforts to provide you with objective information relating to the proposed standard will be useful to you. If you have any questions, please feel free to communicate directly with me.




Sincerely,

D. Benjamin Borson, J.D., Ph.D.
 Executive Committee
 Intellectual Property Section
 State Bar of California

Below is a copy of the survey questionnaire and results obtained

Recently, the USPTO has proposed to move toward a "Unity of Invention" standard and away from "restriction practice." The Office published a Notice in the Official Gazette with a Proposal for Rule Making. Below is the link to the USPTO website containing the Notice.
<http://www.uspto.gov/web/offices/com/sol/notices/68fr27536.pdf>. We request that you review the Notice, evaluate the issues raised and answer the questions below

1. Are you a patent attorney?

Yes		90.7%	(68)
No		8.0%	(6)
TOTAL		98.7%	75

2. Based on the Notice, do you believe that you understand the differences between "Unity of Invention" and "restriction practice?"

Yes		86.7%	(65)
No		12.0%	(9)
TOTAL		98.7%	75

3. If you understood that Unity of Invention might limit you to independent claims that had to share a common patentable characteristic would you want your applications to be so limited?

Yes		41.3%	(31)
No		56.0%	(42)
TOTAL		97.3%	75


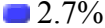

4. If you understood that Unity of Invention might limit you to independent claims that patentably resolve a common problem, would you want your application to be so limited?

Yes	 42.7%	(32)
No	 54.7%	(41)
TOTAL	 97.3%	75



5. Do you favor a move to "Unity of Invention" and away from restriction practice?

Yes	 52.0%	(39)
No	 45.3%	(34)
TOTAL	 97.3%	75


6. Do you favor maintaining the ability to file Divisional or Continuation applications and maintain claim to earlier priority?

Yes	 94.7%	(71)
No	 2.7%	(2)
TOTAL	 97.3%	75

7. Do you favor maintaining the ability to file Continuation-in-Part applications and maintain claim to earlier priority for common subject matter?

Yes	 90.7%	(68)
No	 6.7%	(5)
TOTAL	 97.3%	75

8. Do you favor limiting patent applications to a single independent claim?

Yes	 8.0%	(6)
No	 89.3%	(67)
TOTAL	 97.3%	75

9. Do you favor increased examination fees for applications that contain multiple independent claims to a single invention?

Yes	 29.3%	(22)
No	 65.3%	(49)
TOTAL	 94.7%	75

10. If a Unity of Invention standard were implemented, should the Patent Office examine only the first claimed invention in an application that lacks Unity of Invention?

Yes	 18.7%	(14)
No	 78.7%	(59)
TOTAL	 97.3%	75

11. If a Unity of Invention were implemented, should the Patent Office permit the Applicant to select an invention for examination in an application that lacks Unity of Invention?

Yes	 85.3%	(64)
No	 10.7%	(8)
TOTAL	 96.0%	75

12. Do you favor using multiple examiners to evaluate an application containing an invention involving different disciplines?

Yes	 64.0%	(48)
No	 33.3%	(25)
TOTAL	 97.3%	75

13. Do you favor the USPTO using its authority under RCE practice to examine additional claims in an

application that lacks Unity of Invention?

Yes		72.0%	(54)
No		24.0%	(18)
TOTAL		96.0%	75




14. Should the USPTO perform "partial searches" of claims in applications that lack Unity of Invention?

Yes		53.3%	(40)
No		41.3%	(31)
TOTAL		94.7%	75

15. Do you believe that dependent claims should be subject to examination?

Yes		85.3%	(64)
No		12.0%	(9)
TOTAL		97.3%	75

16. Do you favor using a parent application as "prior art" against a Divisional or Continuation application claiming priority to the parent application?

Yes		2.7%	(2)
No		94.7%	(71)
TOTAL		97.3%	75

17. Do you believe that moving to a Unity of Invention standard requires Legislative action to amend 35 U.S.C. 121?

Yes		62.7%	(47)
No		29.3%	(22)
TOTAL		92.0%	75

18. Do you believe that the USPTO should use its "rule-making" authority to implement aspects of the Unity of Invention standard?

Yes		41.3%	(31)
No		54.7%	(41)
TOTAL		96.0%	75