

Issues of Unity of invention

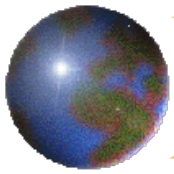
Japan Intellectual Property Association

1st International Affairs Committee

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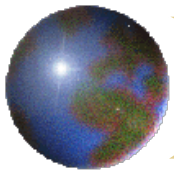
Unity of the invention

1st ISSUE: Different criteria on unity in IP5

- EP (article 82, rule 44)
- CN (article 31, rule 34)
- Japan (article 37, rule 25-8)
→ **Single general inventive concept and Special technical features**
- KR (article 45, order article 6)
single general inventive concept + technological features

Differences

- **US:** If two or more **independent and distinct inventions** are claimed in one application, the Director may require the application to be restricted to one of the inventions.(35USC121)
- § 1.142 Restriction Requirement
§ 1.146 Election of species
→ **issued at the discretion of the examiner(i.e. “serious burden” MPEP803)**
(for the following reasons: USC is different, the claims or Embodiments are too many, etc.)



Unity of the invention

2nd ISSUE: Additional requirements for Unity

-EP Rule 43(2): 1 independent claim per 1 category

- Different criteria on Unity
- Additional requirements regarding Unity



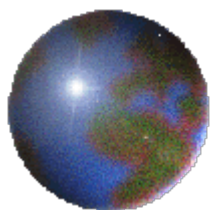
☆ Even for the same claims, **different numbers of divisional applications are necessary** in respective countries, resulting in increased cost

Economic Burden (estimated by JIPA)

Assuming there is at least 15% difference in the proportion of restriction requirement (or OA having unity rejection) between Japan and US.

80,000 cases/year × 0.15 × 400,000 JPY/case (divisional application cost)
= 4.8 billion JPY (48million USD)





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Thank you for your attention.