

Law Governing Inclusion Of Multiple Inventions In A Single Patent Application

On several occasions, multiple inventions are covered by a single patent application. Inclusion of multiple inventions, which may be related to each other, in a single patent application, may be done for strategic reasons. However, the patent law in most countries allows claiming a single invention or a single inventive concept in an application.

One of the important aspects of a patent application is that, it should have ***“unity of invention”*** i.e. a single patent application should claim only one invention. In case a patent application claims more than one invention, then the patent application may get rejected during examination on the ground of lacking unity of invention. Such rejection can be overcome by amending the patent application (can be referred to as “parent application”) to claim a single invention. The additional inventions that were previously claimed or covered by the patent application can be claimed by filing ***“divisional application(s)”***. Apart from filing a divisional application as a remedy to a rejection by a patent examiner, a divisional application can be filed voluntarily by the applicant.

A divisional application allows an applicant to divide one of the inventions from the parent application into a new complete application without losing his priority rights. ***Term of the divisional application is 20 years*** from the date of filing of the parent application.

A divisional application is considered as a substantive application, and therefore separate fee has to be paid for its filing. Further, as it is examined separately, a request for examination must be made. A divisional application should be accompanied by a complete specification and should not include any matter not in substance disclosed in the parent application. Further, the divisional application should not include a claim for any matter that is claimed in the parent application or any other divisional application (*L.G Electronics, Inc, Korean Corporation Vs. The Controller of Patents & Designs et. al.*). It shall be noted that a divisional application can be filed at any time before the grant of the patent, and one must be the applicant of the parent application to file a divisional application.

In some jurisdictions, a divisional application may arise from another divisional application. However, in India, all divisional application should arise from the parent application and should be filed before the grant of the patent application.

(<http://pib.nic.in/newsite/PrintRelease.aspx?relid=97629>).

Conclusion:

Including subject matter related to multiple related inventive concepts in a single patent application can be a good strategy in some scenarios. Such a strategy may help a patent applicant in postponing the expenses involved in filing the patent application. Further, the applicant, depending on the market feasibility of the inventive concepts can choose how the patent application can be divided into one or more divisional applications. However, an attempt to use provisions relating to divisional applications to reinstate claims of an abandoned application that may include a single inventive concept may not work.

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