



## POSITION STATEMENT

### MULTIPLE PATENT CLAIM FORMS

*Adopted by the IEEE-USA  
Board of Directors, 20 Nov. 2009*

IEEE-USA calls on Congress to amend the patent statutes, to ensure that patent applicants who must use multiple claim forms to protect their inventions are not penalized.

In recent years, the United States Patent and Trademark Office (USPTO) has sought to penalize applications that have more than a nominal number of claims. First, the USPTO proposed an exponentially increasing charge for additional claims that Congress did not adopt. Now, it has proposed requiring an "examination support document," whenever more than 10 representative claims are included in an application -- either as an independent claim, or as a claim in a different statutory class.

Because software-based inventions require claiming in a variety of ways to get full protection, such patent applications need to have four or five times the number of claims as other technologies. It is common for software-based inventions to claim the invention as a method or process, a system or machine, and as a medium storing the program.

These claims forms have been developed so that the true infringers of a method patent -- the companies that are selling programs using a patented method without permission -- can be treated as direct infringers, rather than contributory infringers, or inducers of infringement.

Congress should amend the patent statutes so that intentional distribution of a computer program that uses a patented method is an infringement of that patent, so that multiple claims forms are no longer necessary, in these cases.

This statement was developed by IEEE-USA's Intellectual Property Committee and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA advances the public good and promotes the careers and public policy interests of more than 210,000 engineers, scientists and allied professionals who are U.S. members of IEEE. The positions taken by IEEE-USA do not necessarily reflect the views of IEEE or its other organizational units.