

PTO to Accelerate Review of Green Technology Patent Applications

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The United States Patent and Trademark Office (PTO) has announced a pilot program allowing accelerated review of “green” technology patent applications.

The announcement of this program coincides with the United Nations Climate Change Conference in Copenhagen, Denmark, and serves to encourage investment in green technologies.

Currently, U.S. patent applications are normally reviewed in the order that they are filed, unless they satisfy the petition requirements for the PTO’s accelerated examination program (which can often involve the filing of an onerous “examination support document”) or in certain other special cases.

Under the new Green Technology Pilot Program, the petition requirements for advancing out of turn in examination are modified or waived for patent applications relating to certain green technology. To qualify for this pilot program, the patent application must be a non-provisional application that was already on file as of December 8, 2009, and must be classified as pertaining to environmental quality, energy conservation, development of renewable energy resources, or greenhouse gas emission reduction. There is a published list of qualifying U.S. patent classifications for this pilot program which includes classifications relating to alternative energy production, energy conservation, environmentally friendly farming, and environmental purification, protection or remediation.

Among other requirements, the application must contain or be amended to contain three or fewer independent claims and twenty or fewer total claims. The applicant must file a statement stating his willingness to restrict the claims to a single invention. The applicant must state as a basis for special status that the claimed invention materially enhances the quality of the environment, or materially contributes to the discovery or development of renewable energy resources, the more efficient utilization and conservation of energy resources, or the reduction of greenhouse gas emissions. The petition must be filed prior to a first Office Action in the application.

For now, the PTO will accept only the first 3,000 petitions filed under the new program, up to December 8, 2010, but if the program is successful the PTO will consider continuing and expanding the initiative.

More information on the PTO's official notice can be found at:

<http://www.uspto.gov/patents/law/notices/2009.jsp>.

We encourage patent applicants who have a green technology patent application on file to consider the Green Technology Pilot Program.

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