

PTO to Expand Green Technology Pilot Program

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The United States Patent and Trademark Office (PTO) has announced that it will expand its Green Technology Pilot Program so that more patent applicants can take advantage of faster examination for “green” technology patent applications.

The Green Technology Pilot Program, which was first announced in December 2009, allows patent applications relating to green technology to be advanced for examination ahead of other applications under certain circumstances.

In the original pilot program of December 2009, only patent applications that could be classified in specific categories of technologies were eligible for the program. The published list of qualifying U.S. patent classifications for the pilot program was relatively narrow. Only 342 of the first 950 requests filed under the program have been granted, with the rest being denied mostly due to the narrow classification requirements.

Now, under the revised program, the classification requirements have been lifted for petitions decided on or after May 21, 2010, thereby allowing more patent applicants to participate in faster examination for green technologies. Those whose petitions were not granted previously because they did not meet the classification requirements may file a renewed petition. If the renewed petition is filed on or before June 21, 2010, it will be given priority as of the date the applicant filed the initial petition.

In order to participate in the pilot program, the patent applicant must file a petition to make special that satisfies all of the requirements of the original Green Technology Pilot Program other than the classification requirements.

Among other requirements, the patent application must be a non-provisional application that was already on file as of December 8, 2009. 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 a 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. Unless it is clear from the disclosure of the application, the petition must also include a statement explaining how the materiality standard is met.

The PTO will accept only the first 3,000 petitions filed under the pilot program, between December 8, 2009 and December 8, 2010, but if the program is successful the PTO will consider continuing and expanding the initiative.

The publication of the expansion of the program in the Federal Register can be found at: <http://www.uspto.gov/patents/law/notices/75fr28554.pdf>.

We encourage patent applicants to consider the Green Technology Pilot Program.

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