

Climate Change and Clean Technology Blog

Highlighting Legal Issues Regarding Climate Change & Clean Technology

SHEPPARD MULLIN
SHEPPARD MULLIN RICHTER & HAMPTON LLP
ATTORNEYS AT LAW

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Posted at 1:35 PM on June 1, 2010 by Sheppard Mullin

[US Patent Office Expands Green Technology Accelerated Examination Program - More categories of invention are now eligible for expedited processing](#)

By [Daniel Yannuzzi](#)

The United States Patent and Trademark Office (USPTO) has expanded its Green Technology Pilot Program to allow more categories of technology to be eligible for expedited examination.

Under the Green Technology Pilot Program, applications pertaining to environmental quality, energy conservation, development of renewable energy, or greenhouse gas emission reduction, will be considered without meeting all of the usual requirements of the accelerated examination program (e.g., examination support document). Applications accorded special status will be placed on the examiner's special docket and advanced out of turn prior to the first Office action, and will have special status in any appeal to the Board of Patent Appeals and Interferences and also in the patent publication process. Applications having special status under this program, however, will be placed on the examiner's amended docket, after the first Office action.

The Pilot Program was originally limited to certain classifications to allow the USPTO to gauge the impact of the program and manage its resources. Due to this limitation, a number of petitions for green technology applications that would have otherwise qualified for the program were denied. However, after running with the program for several months, the USPTO has now determined that it can remove the restriction, opening up the program to a broader spectrum of green technologies. "There has been a tremendous amount of interest in the Green Technology Pilot Program, and we would like to enable applicants whose inventions did not fall within the initial classifications eligible for the program to be eligible," said Under Secretary of Commerce for Intellectual Property and Director of the USPTO David Kappos. "By expanding the eligibility criteria for this program, will further accelerate the development of critical green technologies while creating new jobs."

If you want to participate in the pilot program, you must file a petition to make special under the Green Technology Pilot Program that satisfies all other requirements set forth in the December 8,

2009, *Federal Register* notice on this topic. No fee is required for participation in the program. The USPTO has waived the usual \$130.00 fee for a petition under 37 C.F.R. § 1.102 (other than those enumerated in 37 C.F.R. § 1.102(c)). However, the program term is limited and petitions must be filed before December 8, 2010, and is limited to the first 3,000 grantable petitions to make special under the program in new applications filed before December 8, 2009. Although almost 1,000 requests have been filed, only approximately 350 applications have been accepted into the program. According to the USPTO, this low acceptance rate was primarily due to the classifications restrictions. Accordingly, with the lifting of these restrictions, the number of applications in the program is expected to rise quickly.

If you previously filed a petition and it was dismissed or denied solely on the basis that your application did not meet the classification requirement, you may now file a renewed petition. If your renewed petition is filed by June 30th, 2010, it will be accorded priority as of the date you filed the initial petition. It is important to note that continuing applications will not automatically be accorded special status based on a parent application. Each continuing application must meet all the requirements for special status on its own.

For an application pertaining to environmental quality, the petition to make special must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of the basic life-sustaining natural elements. The petition to make special for an application directed to development of renewable energy or energy conservation, or directed to greenhouse gas emission reduction, must state the basis for the special status (i.e., whether the invention materially contributes to (1) development of renewable energy resources or energy conservation, or (2) greenhouse gas emission reduction).

For more information regarding this article, please contact [Daniel Yannuzzi](#). Mr. Yannuzzi is a partner in the firm's Del Mar office and co-chair of the firm's Intellectual Property Practice Group.