

USPTO to Accelerate the Examination of Green Technology Patent Applications

DECEMBER 1, 2009

The United States Patent and Trademark Office (USPTO) announced last week that it is launching a Green Technology Pilot Program (the “Program”) to accelerate examination of certain “green technology” patent applications.

Patent applications are normally taken up for examination in the order that they are filed with the USPTO. Ordinarily, the average time for an application in “green technologies” to be taken up for examination would be approximately 30 months. However, under the Program, the first 3,000 “green technology” applications already filed in which a petition to make special is accepted will be examined on an accelerated basis.

The USPTO defines “green technologies” as those technologies classified under certain U.S. classifications. The Federal Register, Vol. 74, No. 234, P. 64668, details the specific classifications that qualify under the Program. The USPTO summarizes the “green technology” classifications as those pertaining to environmental quality, energy conservation, development of renewable energy resources, and greenhouse gas emission reduction.

To qualify for the Program, the patent application must have been filed with the USPTO before December 8, 2009, and must have a maximum of 20 total claims and a maximum of three independent claims. An amendment to the claims may be filed to make the application compliant with this requirement.

To participate in the Program, the applicant of a “green technology” patent application must file a petition to make special before December 8, 2010. No fee is required. The petition must indicate whether and how the subject matter of the patent application “materially contributes” to the identified green technology. If the petition is granted, the application will be granted special status.

Applications that are granted special status under the Program will be placed on the examiner’s special docket prior to the first office action, meaning that the examiner will take it up for examination ahead of applications not in the Program. Applications in which an office action has already been issued will be placed on the examiner’s amended docket, meaning that they will be examined in order together with other amended applications including applications not in the Program.

Applicants who presently have patent applications on file claiming subject matter that may be classified as “green technology” should act promptly to file a petition under the Program. The Green Technology Pilot Program is limited to the first 3,000 petitions and is expected to be popular.

Additional Information