



USPTO Highlights Successful Expedited Patenting of Cleantech Inventions

By: Gaston Kroub

Visitors to the [United States Patent and Trademark Office \(USPTO\) website](#) are currently being greeted by both a headline, "USPTO Accelerates Green Technology Patents," and an invitation to read the latest update from the USPTO on its "Green Technology Pilot Program" ("GTPP"). Launched in December 2009, subsequently modified to invite further participation in May 2010, and finally renewed for an additional year in November 2010, the GTPP has been proudly held out as an example of the U.S. Government's incentivizing of innovation and investment in the building of a "green economy" domestically. While practitioner reviews of the GTPP have been mixed, with some, including this author, previously noting that the GTPP's limited scope and reach promised to limit the potential impact of the program as compared to similar efforts undertaken by other patent offices worldwide, the USPTO must be credited for sticking with the GTPP and modifying it midstream in order to make it more attractive to innovators in the Cleantech space. Likewise, despite the somewhat disappointing participation rate in the first year of the program, the USPTO's willingness to continue to offer the GTPP as an incentive to foster Cleantech innovation and investment appears to be paying dividends as the program matures.

Benefits of the GTPP and Usage to Date

The USPTO's latest release regarding the GTPP encapsulates nicely the benefits of the program to qualifying applicants: "Through the pilot, USPTO provides special accelerated status to patent applications for inventions that materially contribute to enhancing environmental quality; the discovery or development of renewable energy resources; the more efficient utilization and conservation of energy resources, or greenhouse gas emission reduction." Because inclusion in the GTPP requires the successful filing of petition in the USPTO, using experienced patent counsel in the Cleantech space can be of help to applicants in making sure the petition is properly filed, and that the underlying patent application meets the requirements for inclusion in the program. According to the USPTO, "[p]rogram statistics show that stakeholders participating in the Green Tech Pilot have obtained patents much more quickly as compared to the standard examination process," a desirable result in many circumstances for Cleantech innovators of all stripes, from independent inventors to multinational corporations invested in "greening" their service and product offerings through innovation. As the primary benefit of the "special accelerated status" accorded a patent application accepted into the GTPP is earlier issuance of a first Office Action, it is no surprise that the USPTO highlights the rapid issuance of first Office Actions (average of 49 days) once an application is accepted into the GTPP. The USPTO also claims that "in many



instances” patents are issued on GTPP participating applications in less than one year from filing, but does not give any concrete numbers supporting that particular claim. With respect to overall participation in the program, more specificity is provided – during the entire pendency of the GTPP, 1,918 petitions for inclusion have been granted, and 328 patents have issued from those applications according to the USPTO.

The USPTO Joins the Chorus Touting the Success of “Green” Patent Programs

The USPTO is clearly happy with the progress of the GTPP, as noted by Director David Kappos: “We’ve seen great results so far with applications in the Green Technology Pilot Program and Calera Corporation is just one of many successful examples,” Kappos said. “I am extremely proud of the dedication that our patent examiners, union partners, and management at the USPTO have shown in support of this effort and I’m thankful for the trust U.S. innovators have put in us by using the program so vigorously.” Interestingly, the USPTO has chosen to spotlight the experience of one company, Calera Corporation, with the GTPP, both in the quote from Director Kappos, and throughout the release recently posted on the USPTO website, and made accessible through the homepage. Similarly, and as noted by this author’s recent article on the United Kingdom Intellectual Property Office’s (“UKIPO”) “Green Channel” for Cleantech inventions (currently posted on the Green Patent Blog), the UKIPO chose to highlight one program participant’s success with the program in its own analysis of the incentive program it currently offers for Cleantech inventions. These success stories, combined with the obvious benefits of faster-issued patents from a cost and resource perspective, amongst other benefits, accentuate the importance of innovators, whether individuals or companies, and their counsel maintaining an awareness of the various possibilities for expedited patent examination of Cleantech inventions in the U.S. and abroad – and utilizing those programs to advance strategic business objectives where possible.

For more information on the matters discussed in this *Locke Lord QuickStudy*, please contact the author:

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