



UKIPO “Green Channel” Initiative Two Years in to Faster Cleantech Patents

By: Gaston Kroub

The United Kingdom Intellectual Property Office’s (UKIPO) “Green Channel” is a no-fee added service offered by the UKIPO for accelerated prosecution of patent applications directed to inventions with alleged environmental benefits. Any pending application is eligible for the program, assuming the applicant complies with the minimal requirements for inclusion. Depending on the prosecution aspects the applicant chooses to accelerate, the UKIPO’s Green Channel could result in issued patents in as little as nine months. The regular pathway to an issued patent is estimated to average between two and three years in the UKIPO.

The UKIPO does not guarantee, of course, if and when applications in the Green Channel will issue, but rather affords applicants the option of accelerating some or all of the prosecution process for “green” inventions. There is no separate petition process for inclusion in the Green Channel, in contrast to the USPTO’s Green Technology Pilot Program. Applicants do not even have to file a form to have their pending applications considered under the Green Channel; a written request pointing out which aspects of the prosecution process the applicant wishes to accelerate and how the invention has an environmental benefit suffices. The applicant can choose to accelerate any or all of the following prosecution process aspects: Search, Combined Search and Examination, Publication, and/or Examination.

With respect to the “environmental benefit” prong of the written request, the Green Channel as set up by the UKIPO recognizes that environmental benefits can be found in inventions of all types, and accordingly does not limit participation on the basis of technology areas, or IPC classification. Nor does an applicant need to demonstrate that the invention meets any specific environmental standard. Having an application drawn to an invention in an established “green” technology area, will, however, make the showing of environmental benefit in the applicant’s written request more straightforward. The UKIPO has indicated that in such technology areas, a “simple statement is likely to be sufficient.” For inventions with less obvious environmental benefits, “a more detailed explanation is likely to be necessary to explain how the invention has an environmental benefit,” and the applicant’s written request should endeavor to meet that standard. While the UKIPO “will not conduct any detailed investigation into these assertions,” it reserves the right to “refuse requests if they are clearly unfounded.” In all cases, participation is by applicant request, however, so even applications directed to inventions in established green technology areas, e.g. solar panels, are not automatically moved into the Green Channel by the UKIPO.

To mark the occasion of the program’s two-year anniversary, and in recognition of the 100th green patent granted “under the Green Channel acceleration scheme,” the UKIPO recently issued a press release



highlighting the program's success. In addition to noting that the 100th green patent had issued, the press release notes that since the initiative was launched in May 2009, the UKIPO had received over 450 green patent applications. The average patent in the program was granted just eight months after the request for acceleration was entered, a measurable improvement from the UKIPO's 36-month pendency for normal applications.

The UKIPO's lobbying efforts have resulted in either expressions of interest or actual implementation of similar schemes from a number of other countries, including China, Brazil, Australia, Japan, and South Korea. And in order to make information about applications accepted into the program easily available to the public, the UKIPO created a publicly accessible [Green Channel database](#). This searchable database allows users to view published applications and granted patents which have been accelerated under the Green Channel. Ambitiously, the UKIPO hopes that future innovation of "green" technologies will be spurred by allowing businesses and inventors "easy access to green ideas and inventions" and claims that "green patents provide innovative businesses to develop green products that can be brought quickly into the marketplace" – particularly if those green patents are "fast tracked." The range of technologies represented in the database is diverse, ranging from compostable toilets to headlamps to floating recycling plants. These data points indicate that the UKIPO's Green Channel is being used as a viable alternative for patent applicants seeking a forum for expedited examination on the basis of environmental benefit. In this author's opinion, there is little doubt that the UKIPO's Green Channel initiative is off to a good start. Compared to the well-chronicled fits and starts of the USPTO's Green Technology Pilot Program, the Green Channel appears to be a smooth-running program operating as intended, with relatively low barriers of entry to interested participants. Protean Holdings' Intellectual Property Manager, one example of an interested participant, is quoted in the most recent press release speaking very favorably of the Green Channel, mentioning the importance to his "young company" in getting its green patents issued quickly ("as soon as 10 months after filing") so that Protean can "attract new investment and prospective customers."

While not every prospective patentee will be assured of a similar outcome, sophisticated patent counsel are urged to consider the Green Channel as a resource for mission-critical and time-sensitive patent applications, irrespective of whether the applicant is a sole inventor, a start-up or a multinational corporation. Hopefully, utilization of the program will increase, and applicants will begin to leverage the Green Channel, in conjunction with patent cooperation agreements, e.g. the Patent Prosecution Highway, to get "green" patents issued faster and thereby spur additional innovation of environmentally beneficial technologies. (This *QuickStudy* is a slightly revised version of a two-part post on www.greenpatentblog.com)

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

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