

REPORT

CLASSIFICATION REQUIREMENT REMOVED FROM THE GREEN TECHNOLOGY PILOT PROGRAM

May 24, 2010

On May 21, the United States Patent and Trademark Office (USPTO) announced a broadening of its Green Technology Pilot Program ("Program"). The Program, which is still only available to the first 3,000 applicants to file a petition, is intended to expedite examination of patent applications related to "green" technologies. As reported in our December 15, 2009 Special Report, the Program allows an applicant to have examination expedited if the applicant meets certain requirements.

Currently, the delay in issuance of a first Office Action can be up to three years or more in some art units. Under the Program, applicants may be able to significantly reduce such delay. Being accorded special status under the Program not only may result in the application receiving a first Office Action more quickly, but also will accord the application special status in any appeal to the Board of Patent Appeals and Interferences (BPAI), and also in the patent issuance process.

I. Requirements to Participate in the Program

The requirements to participate in the Program are set forth in our December 15, 2009 Special Report. However, as of the date of that Report, the Program was limited to applications classified in a number of U.S. Patent Office classifications¹ (see the Appendix attached to our December 15, 2009 Special Report). That classification requirement resulted in petitions being dismissed or denied solely on the basis that the applications did not fall into an approved class and subclass.

Effective May 21, the USPTO has eliminated the classification requirement so that all otherwise-qualifying applications related to green technologies are eligible to participate in the Program. That is, an application no longer needs to be in one of the specific classes or subclasses listed in the Appendix attached to our December 15, 2009 Special Report to be eligible for expedited examination under the Program. This modification should permit many more applications to qualify for the Program.

Applicants whose prior petitions to participate in the Program were dismissed or denied solely for not meeting the classification requirement may file a renewed petition. If the renewed petition is filed by June 21, 2010, the renewed petition will be given priority as of the filing date of the initial petition.

II. Duration

The Program is effective as of December 8, 2009, and is currently available until December 8, 2010. The USPTO will only accept the first 3,000 petitions to make special under the Program. The USPTO may extend the Program after December 8, 2010. However, because the Program is currently limited both in duration and the number of petitions that will be accepted, applicants desiring to participate are encouraged to take action as soon as possible.

Please let us know if you desire any additional information regarding the Green Technologies Pilot Program, or if you have any questions about other ways to expedite examination of U.S. patent applications.

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¹ The USPTO classifies (*organizes*) patents in a system using a class number and a subclass number to describe groupings of patent art having similar technical features.

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