Patent Office Will Expedite Prosecution of Green Technology Patent Applications

12.11.2009 | UPDATES

The U.S. Patent Office (PTO) just announced a pilot program that will advance "green tech" patent applications out of turn for early examination. The program allows patent applicants to petition the PTO to "make special" a green tech patent application. The usual requirements for making a patent application special at the PTO, which can be quite a burden on the patent applicant, will be waived, as will the usual $130 petition fee.

The program is available only for the first 3,000 petitions that meet the PTO's requirements. Those requirements are:

1. The patent application must be a non-provisional, non-reissue patent application filed before December 8, 2009.
2. The application must meet the PTO's classification for green technology as identified in 74 Federal Register 64666 (Dec. 8, 2009).
3. The application must contain or be amended to contain no more than three independent claims and no more than 20 claims in total.
4. The claims must be directed to a single invention that materially enhances the environment or contributes to renewable energy, energy conservation or greenhouse gas reduction. In the case of multiple inventions, the applicant must be willing to elect a single invention via a telephone interview. In instances where a single election must be elected, the applicant may still pursue other non-elected inventions stemming from that application in future divisional applications.
5. The petition must be filed electronically before December 8, 2010.
6. The petition must be filed before the PTO issues a first office action in the application.
7. The petition must include a request for early publication.

Since there are requirements as to the content of the Petition to Make Special Under the Green Technology Pilot Program, as well as a possible need to prepare and file a Preliminary Amendment to conform an already filed application to the requirements as to number, type and content of claims, we advise that you consult with your patent counsel in advance of filing such petition. If you would like more information on the above program, including the specific types of patent applications that meet the PTO classifications, please contact your Perkins Coie patent attorney.

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