

# Accelerated Examination Pilot Program for Green Technology Patent Applications

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The United States Patent and Trademark Office (USPTO) published a notice on December 8, 2009, indicating that a new Pilot Program for Green Technologies Including Greenhouse Gas Reduction was being implemented. The pilot program grants certain patent applications that relate to “green technologies” special status, thereby expediting prosecution of these applications. Applications related to environmental quality, energy conservation, development of renewable energy resources, and greenhouse gas emission reduction may receive accelerated examination under the new program.

To receive special status, an application must have been filed prior to December 8, 2009, and must not have received a first office action. Further, the applicant must file a “petition to make special” before December 10, 2010, with a request for early publication of the application and meet the following requirements:

- 1.) The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. § 111(a) or an international application that has entered the national stage in compliance with 35 U.S.C. § 371. Reexamination proceedings are excluded from the pilot program.
- 2.) The application must be classified in one of the patent classifications set forth in the pilot program notice.
- 3.) The application must contain three or fewer independent claims, 20 or fewer total claims, and no multiple dependent claims.

The USPTO estimates that approximately 25,000 currently pending applications meet the eligibility requirements. However, only the first 3,000 petitions will be accepted by the USPTO, after which the USPTO will review feedback from the participants and determine the effectiveness of the pilot program and whether the program should be extended. The USPTO anticipates that the pilot program will effectively reduce prosecution time by about one year.

Applicants that are in a position to utilize the pilot program should assess the value in expedited prosecution against the prosecution limitations, which include specific submission requirements, early publication, abbreviated restriction practice, and claim number constraints. Accelerated examination is already available for some “green” applications, however, the new program eliminates the petition fee and the requirement of an accelerated examination support document which is deemed by many practitioners as a risky practice, time consuming, and costly.

The value of the pilot program has yet to be realized. However, USPTO Director, David Kappos, indicates that the public will be updated on empirical data related to the progression of the program through the year and also allow for public feedback of the program.