

## no-fee expedited examination for environmental technologies gets the “green” light

Amendments to the Patent Rules that benefit Canadian patent applications related to green technologies have been approved by the Governor in Council and were published on March 16, 2011, in the *Canada Gazette Part II*.<sup>1</sup> These amendments, which came into force on March 3, 2011, allow for expedited examination to be requested without the standard \$500 fee in respect of Canadian patent applications that “would help to resolve or mitigate environmental impacts or to conserve the natural environment and resources.” These amendments will help inventors of green technologies more quickly secure funding and commercialize their technologies.

As a side note, the amendments also stipulate that the failure of an applicant to perform any action within the original specified time period in respect of the prosecution of a patent application for which the applicant requested expedited examination will cause the examination of the application to return to its normal course. This provision is only triggered for failures occurring after April 30, 2011, thereby affording applicants a grace period. Further, this provision is not triggered in cases where a third party requested expedited examination.

These changes follow on the heels of the introduction of the Green Technology Pilot Program implemented on December 8, 2009, by the US Patent and Trademark Office. Under this program, upon receipt and approval of a petition submitted by an applicant, examination for a US patent application pertaining to environmental quality, energy conservation, development of

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<sup>1</sup> SOR/2011-61 (available [online](#)).

renewable energy, or greenhouse gas emission reduction can be accelerated.

These amendments are good news for inventors and companies that are developing technologies that may resolve or mitigate environmental impacts or conserve the natural environment and resources. As the government fee is waived, requesting expedited examination under this provision will be more appealing to innovators that believe their technology falls under this definition of green technologies, which appears to be quite broad. The Canadian Patent Office has a stated goal of issuing an office action or notice of allowance within two months for applications for which expedited examination has been requested, and experience has shown that they are close to meeting their goals. As a benchmark, the Canadian Patent Office can take two or more years in many cases to issue a first office action or notice of allowance for regularly-examined patent applications after examination is requested.

Taking advantage of expedited examination in Canada in combination with the filing of patent applications in countries with which Canada has signed Patent Prosecution Highway agreements can be particularly attractive. Patent Prosecution Highway agreements provide procedures by which information can be shared between patent offices, allowing other patent offices to benefit from the work performed by the patent office in which the application was first filed. Thus, a notice of allowance of a patent application quickly obtained in Canada can further advance the examination process elsewhere, enabling patents to be obtained in a number of nations relatively rapidly.

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#### [a cautionary note](#)

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