

The prioritized examination pipeline for “Green Patents” has been now established on a permanent basis

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The Brazilian Patent Office's (BPO) “green patents” prioritized examination proceeding, which was initiated in April 2012 and has been yearly renovated for four consecutive years, has now been reissued on a permanent basis via Resolution No. 175 as per publication made in Brazilian Official Gazette No. 2396 of December 6, 2016 (see Annex).

During the 4 years of the use of the pilot program, 480 patent applications were submitted to the program, 325 of which having been considered eligible for the program. The maximum time for a final decision was of about 2 years.

The resolution now published essentially maintains the previous pilot program's eligibility rules and conditions.

In order to be eligible for the program, the invention must deal with a “green technology”, based in the inventory published by WIPO (see Annex).

The patent application must contain, at the most, 15 claims, of which up to 3 claims can be independent claims. A specific form must be completed and presented at the Patent Office.

The application must already have been published or, if not, its publication must be requested by the applicant. Examination must also be requested upon submission into this Program, if not previously having been so requested.

Applications must be at a stage of prosecution awaiting the substantive examination and should not be on hold for compliance with a previously issued Office Action.

Annuity payments must be updated for the application.

The eligibility of the application will be analysed by the Brazilian Patent Office's Patents Directorship, who will give notice of acceptance or rejection of the submission request via a specific publication made in the Official Gazette.

Once accepted into the Program, the application will be examined on its merits by the Patent Office with priority over other patent applications that may be in the same Examination Section, awaiting analysis.

In case we need further clarification on the program and its use, please contact us at mail@kasznarleonardos.com



FEDERAL PUBLIC SERVICE
MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE
BRAZILIAN PATENT AND TRADEMARK OFFICE
PRESIDENCY

RESOLUTION No. 175, of November 5th, 2016

Subject: Regulates the prioritized examination
of “Green Patent” applications.

THE PRESIDENT, and the PATENT DIRECTOR OF THE BRAZILIAN PATENT AND TRADEMARK OFFICE - BTPO, under their invested legal and regimental attributions as provided in Decree no. 8,854, of September 29, 2016,

IN VIEW OF the dispositions of Law 9,279, of 14 May 1996, and Normative Guideline PR no. 30, of December 4th, 2013, of the BPTO;

IN VIEW OF the dispositions of Law no. 12,187, of December 29, 2009, which sets out the National Climate Change Policy – PNMC, and Decree no. 7,390, of 9 December 2010, which regulates Articles 6th, 11 and 12, of Law no. 12,187, of December 29, 2009;

DECIDE

Art 1st - This resolution regulates the prioritized examination of “Green Patent” applications.

Art. 2nd - “Green Patent” is the patent application considered eligible to the prioritized examination, as set forth on the List in Annex I of this Resolution.

Sole paragraph – It is applicable to the applications the dispositions of articles 10 and 18 of Law 9,279, of May 14, 1996.

Art. 3rd - The Patent Department – DIRPA shall select, analyze and decide the prioritized examination of “Green Patent” applications

Sole paragraph – The BPTO shall publish the decision in the Electronic Industrial Property Official Gazette, RPI, stating whether the application is ‘eligible’ or ‘ineligible’ to the prioritized examination of “Green Patent”.

Art. 4th - The prioritized application to “Green Patent” is considered a national application.

§ 1st National applications are the ones accepted in the preliminary formal examination or in the examination on acceptability for entrance into the national phase.

Art. 5th – The submitted application must contain 15 (fifteen) claims at most, up to 3 (three) of which may be independent claims.

Art 6th – The participation of the Applications as prioritized “Green Patent” shall observe the following:

- I- The application must have been published, or its publication has to be anticipated as set forth in Art. 30 caput and paragraph 1st, of Law 9,279, of May 14, 1996;

- II- requesting the patent application examination, as set forth in Art. 33, of Law 9,279, of May 14, 1996;
- III- the examination of the patent application must be requested by the Applicant or its legal representative;
- IV- the application cannot have undergone regular technical examination duly published in the Electronic Industrial Property Official Gazette;
- V- the application cannot refer to:
 - a) a patent application of which the examination is on hold for compliance with official action previously issued by the Patent Department – DIRPA;
 - b) a patent application that has been the subject of a granted request for prioritized examination already published in the Official Gazette;
- VI- the payment of the annuity fees addressed in Art. 84 of the IPL of Law 9,279, of May 14, 1996

Art 7th - Granting the Green Patent to the object of the patent derived from access to a sample of a component of the genetic heritage or associated traditional knowledge is subjected to registration or authorization, according to the provisions of Law 13,123 of May 20, 2015.

Art 8th - Given the need to conform or amend the set of claims for compliance with the provisions of Art. 5th of the present Resolution, the Applicant or its legal representative shall fulfill the dispositions of Art. 32, of Law 9,279, of May 14, 1996.

Art 9th - The acts dealt with in this resolution, when not performed by the Applicant, shall observe the dispositions of paragraph 1st, Article 216, of Law 9,279, of May 14, 1996

Art 10th - This Resolution shall enter into force at the date of its publication in the Electronic Industrial Property Official Gazette

LUIZ OTÁVIO PIMENTEL
Presidente

Júlio César Castelo Branco Reis Moreira
Patent Director

ANNEX I

LIST OF “GREEN TECHNOLOGIES”, BASED ON THE INVENTORY PUBLISHED BY THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

1. Alternative Energy

- Biofuels
 - Solid fuels
 - Liquid fuels (vegetable oils, biodiesel, and bioethanol)
 - Biogas
 - Biofuels from genetically engineered organisms
- Integrated gasification combined cycle (IGCC)
- Fuel cells
- Pyrolysis or gasification of biomass
- Harnessing energy from manmade waste
 - From agricultural waste
 - Gasification
 - Chemical waste
 - Industrial waste
 - Using top gas in blast furnaces
 - Pulp liquors
 - Anaerobic digestion of industrial waste
 - Industrial wood waste
 - Hospital waste
 - Landfill gas
 - Separation of components
 - Municipal and domestic waste
- Hydro energy
 - Water-power plants (PCH and MCH)
 - Tide or wave power plants
 - Regulating, controlling or safety means of machines or engines powered by liquids
 - Propulsion of marine vessels using energy derived from surrounding water Movement
- Ocean thermal energy conversion (OTEC)
- Wind energy
- Solar energy
 - Photovoltaic solar energy (PV)
 - Solar heat energy
 - Hybrid solar thermal-PV systems (thermal-photovoltaics)
 - Propulsion of vehicles using solar power
 - Producing mechanical power from solar energy
 - Roof covering aspects of energy collecting devices
 - Steam generation using solar heat
 - Refrigeration or heat pump systems using solar energy
 - Use of solar energy for drying materials or objects
 - Devices for concentrating solar irradiation
 - Solar heat collectors with working fluid conveyed through collector
 - Geothermal energy
 - Other production or use of heat not derived from combustion
 - Using waste heat
 - Devices for producing mechanical power from muscle energy

2. Transportation

- Hybrid vehicles
- Electric vehicles
- Charging stations for electric vehicles
- Vehicles fed from energy extracted from forces of nature (sun, wind, waves, etc.)
- Vehicles fed from external power supply (electric energy, etc.)
 - Vehicles fed from fuel cells
 - Vehicles fed from hydrogen
 - Vehicles with propulsion by muscle power
- Vehicles with regenerative brakes
- Vehicle's body with low aerodynamic drag
- Vehicles with electromagnetic clutches (less gearing loss)

3. Energy Conservation

- Storage of electrical energy
- Power supply circuitry
- Measurement of electricity consumption
- Storage of thermal energy
- Low energy lighting
- Recovering mechanical energy (e.g. swinging, rolling, pitching)

4. Waste Management

- Waste disposal
- Treatment of waste
 - Consuming waste by combustion
 - Reuse of waste materials
 - Use of rubber waste in footwear
 - Manufacture of articles from waste metal particles
 - Production of hydraulic cements from waste materials
 - Use of waste materials as fillers for mortars or concrete
 - Use of waste for the production of fertilizers
 - Recovery or working-up of waste materials
- Pollution control
 - Carbon capture and storage
 - Air quality management
 - Treatment of waste gases
 - Separating dispersed particles from gases or vapors
 - Use of additives in fuels or fires to reduce smoke and facilitate soot removal
 - Arrangement of devices for treating smoke or fumes from combustion apparatus
 - Dust-laying or dust-absorbing materials
 - Pollution alarms
 - Control of water pollution
 - Treatment of waste-water or sewage
 - Materials for treating liquid pollutants
 - Removing pollutants from open water
 - Plumbing installations for waste water
 - Management of sewage
- Means for preventing radioactive contamination in the event of reactor leakage

5. Sustainable Agriculture

- Forestry techniques
- Alternative irrigation techniques
- Pesticide alternatives
- Soil improvement (e.g. organic fertilizers derived from waste)