

Protecting Eco & Green Intellectual Property

With increasing emphasis on climate change, green building, alternative energy sources, energy savings, and sustainability, developing and protecting intellectual property becomes a critical piece of the solution to these challenges. Intellectual property (IP) protection of green technology should accompany new innovation.

For instance, take the example of the boom of the word "green" used in trademarks. One study shows that the number of trademarks incorporating "green" increased from 1,100 in 2006 to 2,400 in 2007.¹ One survey indicates that more clean energy patents were issued in 2008 than at any other time in history.²

With the increase in eco or green patents, and the rapid rate at which these applications are being filed, it is imperative to protect innovations and intellectual property in these emerging areas. The high level of patent and trademark activity also argues in favor of clearance studies to determine if new technologies and brands infringe upon existing patent and trademark rights. Often new technologies must be modified to design around existing intellectual property rights.

Our intellectual property attorneys are integral members of Jones Walker's Green Law & Sustainability team. We assist clients with evaluating and protecting new technologies from many technical disciplines and industries. These may qualify for special tax exemptions and incentive programs that currently exist or may be added to rapidly evolving legislation.

Eco and green industries are not immune from the assertion of IP rights, and these must be evaluated carefully. Some of these patents are in software-related classes or business methods, such as U.S. Patent No. 7,133,750, issued to Fannie Mae for "System and method for residential emissions trading"; and U.S. Patent No. 6,975,925, issued to Windlynx Systems, B.V. titled "Forecasting an energy output of a wind farm." These are pertinent examples, because business method patents are currently under increased scrutiny due to recent landmark court decisions.

The high level of aggressive competition in this emerging industry also breeds intense trade secret issues when highly mobile employees and executives

move from company to company. Comprehensive company trade secret and technology ownership policies are therefore critical to establish and maintain a competitive edge as the industry evolves.

Working with Jones Walker IP attorneys early in the process will protect your rights and maximize your ability to capitalize on the evolving green technology that your company develops.

1. Growth in trademarks: <http://greenpatentblog.com/>

2. Clean Energy Patent Growth Index, a quarterly tracking service of Heslin Rothenburg Farley & Mestiti PC.