

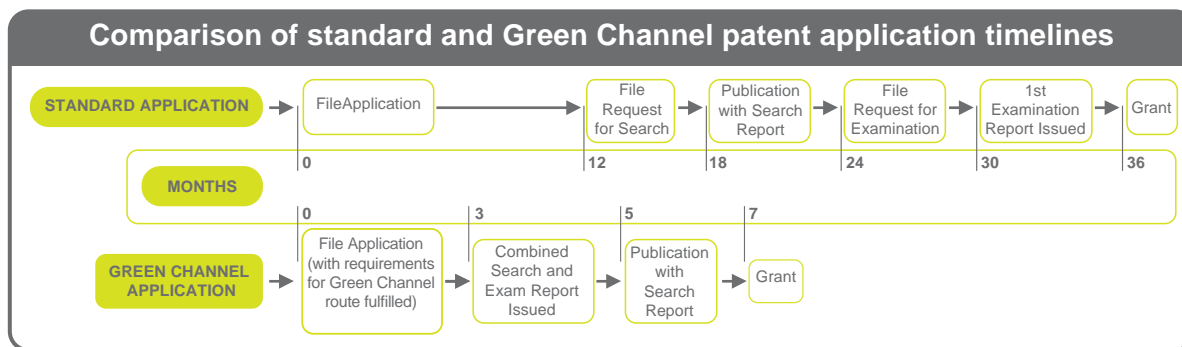
**REPRINT**

# Cleantech Investor

First published in Cleantech Magazine, July 2010.  
Copyright Cleantech Investor Ltd.



# Clean technologies raise new issues for IP Law



*Helen Jones (hmj@gje.co.uk) and Chris Owen (cxo@gje.co.uk), Patent Attorneys with Gill Jennings & Every LLP (GJE), look at the trend around the world for accelerated applications for clean technology patents.*

IP is a fundamental consideration – and a powerful tool – for clean technology developers and entrepreneurs. As each country has its own needs, strengths and local priorities in the field of clean technology development, different countries are focused on different technologies in different ways. A number of national patent offices around the world, including the UK, China, Japan, Israel, Australia and the US, have started to offer accelerated prosecution of patent applications relating to clean/green technologies.

In the UK a 'Green Channel' for patent applications was introduced on 12 May 2009. This allows applicants of both new and pending UK patent applications to request accelerated processing of their application if the invention relates to a green or 'cleantech' technology. The Green Channel procedure is similar to the usual method of accelerating the prosecution of a UK application for other, typically commercial, reasons – a comparison with the normal prosecution route is outlined in the diagram. To enter an application into the Green Channel, applicants must make a request in writing, indicating which actions they wish to accelerate – search, combined search and examination, publication, and/or examination.

Our experience of using the Green Channel in the UK has been favourable: we recently obtained a granted UK patent for one of our clients via the Green Channel within just seven months from the filing of the application. Those seven months included several unavoidable delays on the client's side, which, had they not been incurred, may well have meant that we could have obtained the granted patent for our client even sooner.

As mentioned, accelerated Green Channels are available at a number of other patent offices

around the world, with many of those national patent offices merely requiring an assertion from applicants that their application relates to 'green' technology. In the US, however, any 'cleantech' applicant to the Green Technology Pilot Program must satisfy a considerable number of requirements to have the patent application entered on to that scheme. In any case, the definition of what constitutes a 'green' technology for the purposes of accelerated prosecution is far from defined. However, it appears at present, certainly before the UK Intellectual Property Office at least, that any type of association with improving the environment or increasing efficiency will satisfy the 'green' criteria.

Given the diverse number of approaches to 'cleantech' at various patent offices around the world, it remains to be seen whether governments and regulators will create a common global approach to IP laws and systems relating to inventions which aim to solve global problems whilst taking into account local priorities and lobbies.

For clean technology inventors, investors and governments alike, an ad-hoc or fragmented approach to IP is not sufficient. A broad and comprehensive IP strategy that makes use of the accelerated prosecution channels, and which is planned and reviewed regularly, is required. This is the only way to protect inventions, secure investment, enable deployment across different geographic and political regions, and maintain a climate of innovation and reasonable risk-taking.

The 'cleantech' sector may differ from the well established pharmaceutical industry in that the potential technologies and products are far more diverse, but we can learn from the global development of pharmaceutical IP regulation. What is clear is that neither the potential significance of IP in clean technology nor the complexity of applying it should be underestimated.