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Patent Climate Change Program Targets Greenhouse Gas Emissions

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In June 2022, the US Patent and Trademark Office (“USPTO”) launched the **Climate Change Mitigation Pilot Program** (the “Program”). This program was enacted to support President Biden’s January 27, 2021 **Executive Order**, which emphasized that “[t]here is little time left to avoid setting the world on a dangerous, potentially catastrophic, climate trajectory.” The Program aims to encourage businesses to prioritize climate change mitigation by offering faster and more affordable intellectual property protection. The Program has a particular focus on patent applications directed to technologies related to greenhouse gas reduction, including transportation (e.g., electric vehicles), waste management (e.g., recycling), energy generation (e.g., wind turbines), energy transmission (e.g., batteries) or other similar green technologies.

The Climate Change Mitigation Pilot Program is open to applicants who **certify** that:

- the application includes at least one claim that covers a product or process that mitigates climate change;
- the invention covers a product or process designed to reduce greenhouse gas emissions;
- the applicants have a good faith belief that expediting examination of the application will likely have a positive impact on the climate; and
- none of the inventors has been named as the inventor or a joint inventor on more than four other nonprovisional applications with a “special status” under this Pilot Program.

Qualifying applications are granted a “**special status**,” enabling them to obtain a quicker response. Typically, applications are reviewed in the order they were filed but a “special status” allows an application to **jump the line**. Without this “special status,” applicants typically wait

eighteen months for a **first response**. By contrast, special applications, on average, receive a first response **within two months**. Additionally, the Program grants qualifying applications this “special status” free of charge—a request for special status **typically costs** \$4,200.00. In addition, no pre-filing search is required, providing yet another incentive to applicants.

The program will continue until either June 5, 2023 or until 1000 patent applications have been granted “special status,” whichever occurs first. To date, 165 applications have been granted special status under the Program.

Taking the Temperature: Although the Climate Change Mitigation Pilot Program currently is limited to one year, the USPTO appears committed to facilitating inventions that aid in climate change mitigation. For instance, the USPTO has expanded its **Patents for Humanity award program to include a **Green Energy Category**, which rewards and publicly recognizes those “who are responding rapidly to the challenges of climate change by developing green energy sources using game-changing technologies.” The USPTO also has **become a partner** to the World Intellectual Property Organization’s global green-technology platform (“**WIPO Green**”), which is an online platform that supports global efforts to address climate change by connecting providers and seekers of environmentally friendly technologies. These initiatives reflect the USPTO’s focus on “**innovation-to-impact**” and understanding that “[p]atents are the primary vehicle” for universities, government labs, and businesses “to turn new inventions and technologies into commercial products and entirely new industries.” However, it is unclear whether and to what extent the **increasing politicization** of climate-related issues will impact the USPTO’s efforts to mitigate climate change, as the USPTO’s **mandate** is, in part, to advise the President, the Secretary of Commerce, and U.S. government agencies on intellectual property policy, protection, and enforcement. If there is a change in administration following the 2024 presidential election, it is by no means certain that the new administration would continue to support these efforts.**