

FUTUREtech & CLEANtech – An IP Perspective

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The recent explosion of interest in environmentally friendly technologies has been fuelled by the public's interest in the future of the planet, and by Government support through grants and other incentives. Companies around the World are innovating in a way which will improve our lives and those of our children, whilst reducing our carbon footprint. East of England hi-tech companies are amongst those at the cutting edge of this new and "clean" industrial revolution.

The current global market for such technologies is about £ 150 billion and is predicted to quadruple over the next five to ten years. The rewards, therefore, are potentially enormous for companies and individuals investing in this sector. As with any technology based sector, Intellectual Property (IP) can play a vital role in protecting your investment and securing your return on that investment.

New clean technologies often involve a blend of traditional technical disciplines. A good example is fuel cell technology, which requires a blend of chemical expertise for the reactions within the cell, material science for the materials used to make the cell and control electronics for controlling the environment of the cell. These hybrid technologies, therefore, often require a new approach to obtain optimum IP protection. At Mathys & Squire we routinely involve two or more specialists with high degrees of expertise in their individual areas to handle hybrid technologies effectively, and without duplicating cost.

At present a significant portion of the research and investment in this sector is being carried out or funded by traditional energy companies. At Mathys & Squire we have long experience working for global energy companies in fields such as oil, gas and nuclear power. We are now actively prosecuting large numbers of applications for green technologies, including bio-fuels, solar cells, water treatment and green solvents. As a result of our expertise, we have been selected to advise the Environmental Investment Network, which unites technology companies with investors and has UK government support.

At Mathys & Squire we also understand that with these hybrid technologies, innovation is often based on what at first may seem like minor changes but which provide key enablers for the technology. It is, therefore, critical to the success of companies investing in this area to have in place procedures to identify these changes and to make sure that they are adequately protected by IP. This is a difficult task for many companies especially as the decision of what to protect is often made by managers or engineers without a full understanding of what can be protected. Therefore, if changes have been made and they provide a commercial advantage, then these changes should be considered for IP protection.

It is not necessary for all of these changes to be protected by patents. Other forms of IP protection, such as trade secrets or copyright can be used. The decision of what IP protection to use will depend on a number of factors including whether or not the innovation will become public when the product is released; the likelihood of a competitor making (and possibly protecting) the same innovation; the ease with which it would be possible to design around the innovation in terms of R & D cost; whether failing to obtain IP protection will result in a loss of profit margin; and whether it would be possible to obtain further revenue through licensing.

Of course protecting all innovations may not be possible within the available IP budget. Companies with IP strategies that identify and protect the most commercially important IP and manage it in a cost effective manner give themselves the best possible chance to be successful and to maximise the benefits of their investment.

If you require advice or assistance with your IP strategy or your IP portfolio, or if you would like to know more about Mathys & Squire LLP, please contact the author or visit our website at www.mathys-squire.com.