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THE BIODIESEL PATENT LANDSCAPE IN CANADA

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In recent years, soaring energy prices and a growing awareness of the environmental impacts of fossil fuel use have made the quest for alternative forms of fuel more urgent than ever.

Biodiesel has been among the leading proposed biofuel solutions in Canada and abroad. Despite Canada's delayed emergence onto the biodiesel scene in contrast to its more mature industry counterparts in the United States and Europe, Canadian biodiesel research and production has grown tremendously over the past few years. As biodiesel research activity gains momentum so does the patenting scene within the industry.

What are patents?

A patent gives an exclusive monopoly right for an invention in a given territory so long as the invention satisfies three basic criteria: novelty, non-obviousness and utility. A patent owner thus has the right to exclude others from making, using, selling and constructing its invention for a maximum of twenty years from the patent application filing date.

A patentable invention can be a product, process or composition of matter as well as a new use of an old product. Patents are important for stimulating research and development by providing an economic incentive to the inventor. Companies rely on patents to protect and valorize their research efforts.

One mechanism of asserting a patent right is suing for damages or an injunction in cases of infringement. Patent infringement occurs if someone makes, uses, constructs or sells the invention, without the patent owner's permission, during the term of the patent.

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The Patent Office of Canada maintains a database where interested parties can search for technologies that are protected by patents in their country of interest.

Patents in the Biodiesel Industry

“Biodiesel patents” refer to patents and applications that pertain to processes, improved compositions, uses and apparatuses used in the production or use of biodiesel.

From the early days of simple transesterification for example, there have been considerable advancements made in the production of biodiesel. In 1937, a landmark patent on biodiesel was granted to George Chavanne for '*Procedure for the transformation of vegetable oils for their use as a fuel*', in Belgium (patent No. 422,877). This patent described and claimed the transesterification of vegetable oils using short alkyl alcohols in the presence of a strong acid produced alkyl esters. Today, this older technology has become part of the public domain. Since this landmark patent, many improvements have been made and many patent applications have been filed in an attempt to obtain an exclusive right to those improvements.

Patenting in Canada.

Over the years, there has been a significant increase in the amount of applications for patents relating to biodiesel. In addition, these patent applications are mostly geared towards improved processes for producing biodiesel.

The significant increase in the number of patent filings in Canada points to the important value being placed on biodiesel research activity. As production demands grow, spurred on by government regulations and market pressures, so too will the need for more efficient production methods. Producers and researchers should be aware of patenting as an excellent way of establishing a strategic foothold in a growing field. Moreover, with the proliferation of biodiesel patents, producers should ensure that their processes and compositions do not infringe on existing or pending patents.

Significant patent activity in the field of biodiesel has also been observed in foreign jurisdictions such as Europe and the United States. Indeed, patents are and will continue to be sought wherever biodiesel is made, used or sold. The biodiesel patent landscape will continue to evolve hand in hand with the science and economics of biodiesel.

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