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BIOFUELS AND PATENTS

JEREMY LAWSON^{*}
LEGER ROBIC RICHARD, LLP
LAWYERS, PATENT AND TRADE-MARK AGENTS

Biofuels are gathering steam. The technologies that make them as well as the regulations and economic factors that encourage them, have also gained momentum.

The Canadian biofuel industry has developed in the past decade but it still has a ways to go before bio-derived alcohol, hydrogen or biodiesel blends are commonly found at the pumps.

It is widely agreed that efficient, competitive and sustainable technologies are pivotal for the continued development and staying ability of the biofuel economy. The patent protection of biofuels is a very useful competitive advantage, especially in this field where R&D is in full bloom.

Patentable types of biofuel technologies

Biofuel technology is extremely rich in terms of the many different types of inventions that may be protected by a patent. For example, let us cite (i) primary materials such as plant varieties that have a faster growing cycle, higher sugar, starch or triglyceride content, or better pest resistance and (ii) superior processing techniques to help tip the profitability scales of biofuel production. We could also think of novel fuel compositions that result in better mileage or fewer emissions. In parallel, economical analytical techniques and other devices could ensure an improvement in quality control of biofuels.

Strategies for biofuel companies

On the one hand, companies involved in producing, blending, distributing or researching biofuel should be aware of what is patent protected in their field and where development is available. On the other hand, companies not traditionally engaged in the biofuel industry should evaluate whether they own any patents which could be used in this field. Patents covering technologies such as transgenic microbes, catalyst structures, separation techniques, chemical additives or analytical

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LEGER ROBIC RICHARD, L.L.P.
1001 Square-Victoria - Bloc E - 8th floor
Montreal (Quebec) Canada H2Z 2B7
Tel.: (514) 987-6242 Fax: (514) 845-7874
www.robic.ca info@robic.ca

methods, for example, which were developed for other applications, may be profitably exploited through licensing in the biofuel industry.

In burgeoning markets, as competition comes from many fronts, a one-dimensional R&D approach may not be the most secure way of protecting technology or operations. Given the many steps from plant or animal to the pump, protecting one's research and operations at many levels can extend the scope of exclusive rights.

Significant biofuel patent activity is being observed in Canada as well as in foreign jurisdictions such as Europe and the United States. Companies in the biofuel industry should assess their intellectual property strategy as the science and economics of biofuels continue to motor along.

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