

Approach to Participant Intellectual Property

I. The Objective

As the world gets hotter, global demand for residential cooling solutions is set to skyrocket. However, increased use of current air-conditioning technologies will put a significant strain on energy resources and will hasten global warming.

The Global Cooling Prize (“GCP”) is being launched to encourage and support the development of innovative, commercially viable solutions to supply affordable climate friendly cooling solutions.

It is an expectation of the prize that the winning technology is commercially implemented and that the winning participant makes a good faith effort to commercially work the invention in India.

II. Participant Intellectual Property – Potential Issues

Intellectual Property (“IP”) is a category of property that refers to intangible creations of human intellect such as inventions, literary and artistic works, symbols, names and images used in commerce, etc. IP is broadly divided into two main categories:

- 1) Industrial Property, which includes Patents, Industrial Designs and Trade Marks; and
- 2) Copyright, which includes artistic and literary creations.

IP rights mean legally enforceable rights that are usually obtained through registration within a statutory framework. They provide their owners statutorily-defined periods of exclusivity within which the owners can commercially work and benefit from their IP. The different types of IP can be summarized as follows:

- a) **Patents**: A patent is an exclusive right granted for an invention – a product or process that provides an inventive step – i.e. a new or novel way of doing something, or that offers a new technical solution to a problem. Patent rights are granted through registration for a fixed period of time – usually 20 years from the date of application.
- b) **Industrial Designs (“Designs”)**: An industrial design refers to the ornamental or aesthetic aspects of an article. A design may consist of three-dimensional features, such as the shape or surface of an article, or two-dimensional features, such as patterns, lines or color. Design Rights are granted to new and original designs through registration for a fixed period of time – usually 15 years from the date of application.
- c) **Trade Marks**: A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. A trade mark registration is usually initially valid for 10 years but may be renewed indefinitely.
- d) **Copyright**: Copyright refers to exclusive right granted to the creator of an original work to determine whether, and under what conditions, this original work may be used by others. Copyright usually subsists during the lifetime of the author and for 60 years following her/his demise.

Barring some exceptions, most IP rights, in particular rights pertaining to Patents and Industrial Designs, are territorial in nature i.e. they are granted on a country-by-country basis under such terms and for such durations as prescribed under each country’s specific legislation(s). Consequently, a right granted in a particular country will have no effect outside its borders. Thus, owners using their rights in multiple countries are required to obtain protection individually in all those countries by filing the necessary applications.

In the context of the GCP, the main IP rights at issue pertain to Patents and Designs. It is important to note that an essential prerequisite to obtaining rights in these properties is that they should be new, novel and/or original (collectively “novelty”). Novelty implies that the invention or design has not been publicly disclosed anywhere prior to the filing of necessary application for statutory protection.

Participants should be aware that their applications for the GCP containing technical details of their innovations would likely constitute a public disclosure of their invention/design, and could vitiate their ability to subsequently secure patent/design rights. It is, therefore, imperative that participants understand the risks and take all necessary steps to prevent any adverse impact of their submissions to the GCP.

III. Protection of Participant Intellectual Property

Because of the stringent requirements surrounding novelty in patents and designs, and the territorial nature of their treatment, most jurisdictions around the world offer statutory means to prevent loss of rights through disclosure. These are important tools to preserve and protect your rights, and participants are strongly encouraged to take advantage of them. Some of these means include:

A) Patents:

Provisional Application – a provisional application is a low-cost first patent filing, which is designed to preserve the priority date of the invention. In a provisional application, only the broad contours of the claimed invention need to be disclosed in a specification. Detailed claims or drawings are not required. Provisional applications are required to be followed by main applications. The main benefits of a provisional application are:

- It preserves the priority date of the invention, i.e. a subsequent public disclosure will not destroy its novelty;
- As most countries follow a first to file principle, a provisional also perfects rights vis-à-vis any subsequent third party filing for the same/similar invention;
- It gives the applicant 12 months to study the market, test/modify/perfect the invention and then file the main application;
- It allows the applicants to secure funding; and
- It forms the basis of filing convention priority applications in other countries.

Convention Priority Applications – Most major jurisdictions around the world are signatories to global treaties such as the Paris Convention for the Protection of Industrial Property (Paris Convention), or the Patent Cooperation Treaty (PCT), or other regional treaties that enable applicants to file patent applications in member countries claiming priority from the earliest home application for the same invention. In effect, once a home application is filed (whether a provisional/main application), an applicant may subsequently (usually within 12 months) file equivalent applications in other member countries claiming filing priority from the home application. This preserves the priority of the Applicant’s rights without being affected by subsequent disclosures or third party filings.

PCT applications provide added advantages in terms of time, paperwork and management of applications.

B) Designs:

Design Application – A design application may be filed prior to the disclosure of the visual aspect of the innovation. An application for registration of the design is generally straightforward, and should be filed before submitting the finished article to the GCP.

Convention Priority Applications – The Paris Convention also covers Industrial Designs and enables applicants to file applications in member countries claiming priority from the home country. Such priority applications must be filed in member countries within six months from the date of the earliest application.

Participants are solely responsible for the protection of their IP and are strongly encouraged to seek independent legal advice on potential issues relating to their submissions. GCP members (which include without limitation the operating council, administrators, sponsors, technical review committees, experts and others connected with the GCP) do not make any representation or warranty regarding the treatment or confidentiality of any submissions received, and disclaim all responsibility for the protection of participant IP, or any consequence resulting from participant submissions.

Please note that by submitting their applications participants certify that they are independently and individually responsible for securing their IP and that their submission to the GCP is made after a full consideration of their rights.

Participants selected for interim awards and subsequent prototype testing will also be required to sign waiver agreements absolving GCP members from liability during the testing process.

IV. GCP Assistance to Participants

The GCP members understand that participant IP needs protection. To this end, while GCP members have no responsibility or liability with respect to any submissions, the members will provide the following complimentary assistance to Participants:

- a) Offer strategic guidance on protection of IP to participants through an introductory session during the GCP launch at the launch venue;
- b) Enable a confidential one-on-one consultation with IP lawyers for an initial discussion on participant technology at the launch venue;
- c) Host a one-hour webinar with an IP lawyer for all applicants; and
- d) Facilitate confidential one-on-one phone consultations between prize finalists and an IP lawyer.

Further initiatives to assist participants' in securing and commercializing their IP may be provided from time to time, at GCP members' sole discretion.

V. GCP Efforts towards Confidentiality

GCP members endeavor to ensure that participant submissions are handled carefully during the review process so as to maintain confidentiality and restrict disclosure of participant technologies. They will:

- a) Employ reasonable measures to ensure participant submissions are disclosed on a need to know basis and confidentiality is maintained as far as practical during review and assessment by GCP members; and
- b) Execute confidentiality / non-disclosure agreements in place with all third parties handling participant submissions.

VI. Use of GCP IP

Participants are advised that the GPC logo, GLOBAL COOLING PRIZE, or the logos of the GPC members / sponsors (collectively "GPC IP") are, as between the Participants and GCP



members, collectively owned by the GPC members. By participating in the GPC, participants do not obtain any rights, title, and interest to GPC IP.

GPC finalists may, at GPC members' sole discretion, be granted limited, non-transferable licenses to use the GPC logo, GLOBAL COOLING PRIZE, or any other GPC IP on such terms and conditions as the GPC members may determine from time to time.

In the event any license or permission is granted to a participant, the licensed use must be restricted to the submitted technology only, and for no other purpose. In no event shall a participant use any GPC IP to suggest, or imply that any submitted technology is endorsed by or affiliated with any GPC member.