

HOUSTON BUSINESS JOURNAL

Strictly Houston. Strictly Business.

Week of September 4-10, 2009

Push for renewables, global recession raise questions in industry

Scott W. Clark

Partner specializing in IP
and technology

McDermott Will & Emery LLP

Both the Obama administration's 2010 budget and the American Recovery and Reinvestment Act that it funds, strongly emphasize incentives for renewable energy.



Provisions in the Act, backed with budget funding and private investment, call for an investment of up to \$100 billion in clean and renewable energy applications over the next three years, one-third of which is devoted to clean energy sources for electric power such as wind, solar and tidal. Another \$11 billion will expand and improve the electric power grid through the construction of thousands of miles of new, modernized transmission lines — largely linked to renewable energy sources — and the de-

Because renewable energy generated from wind, solar and tidal energy is intermittent, it poses reliability challenges to grid operators who must continually balance electricity supply and demand.

ployment of 40 million “smart meters” to reduce electric power usage in homes.

There are technological considerations. Because renewable energy generated from wind, solar and tidal energy is intermittent, it poses reliability challenges to grid operators who must continually balance electricity supply and demand. As new technologies are developed to integrate renewable energy generation and transmission, they will present a unique set of intellectual property challenges.

For example, the interconnection process for wind energy, which saw record new U.S. capacity installed in 2008, has yet to be standardized, particularly in areas such as low-voltage ride-through and reactive power.

Moreover, the integration of large-scale smart-meter technology with existing wind energy technology has yet to be addressed. And international turbine and component suppliers are increasingly positioning themselves to exploit their IP advantage through licensing and joint venture arrangements in the United States.

Strategic concerns also exist. Renewable energy projects require proactive planning to address risks, including intellectual property concerns. Although these efforts may differ for each specific renewable energy type, most projects will need to evaluate potential patent infringement risks, which may be resolved through appropriate licensing agreements. These and other technology-focused agreements should also allocate the burden of intervening regulatory change, which is possible for renewable energy projects, given a changing political environment.

Although no one knows how the additional transmission lines, demand response and renewable energy will be blended together, one thing is clear: the renewable energy bandwagon is rolling, and the momentum behind the new technologies is substantial.

Scott W. Clark is a partner in the global law firm of McDermott Will & Emery LLP and is based in the Firm's Houston office.

As a member of the Intellectual Property, Media & Technology Department,

Mr. Clark focuses his practice on patent law for a wide range of technologies, including energy.

Mr. Clark can be reached at +1 713 739 7592 and sclark@mwe.com.