

STATEMENT OF CONSIDERATIONS

PETITION FOR ADVANCE WAIVER OF PATENT RIGHTS BY GE GLOBAL RESEARCH ("GE GLOBAL") UNDER COOPERATIVE AGREEMENT NO. DE-FC36-08GO18085 BETWEEN GE GLOBAL AND DOE; W(A)-09-001; CH-1466

The Petitioner, GE GLOBAL, has requested a waiver of domestic and certain foreign patent rights for all subject inventions that may be conceived or first actually reduced to practice by GE GLOBAL arising from its participation under the above referenced cooperative agreement entitled "Integrated Biomass Gasification with Catalytic Partial Oxidation for Selective Tar Conversion."

The objective of the project is development of an innovative gasifier configuration for selective elimination of tars in syngas produced from lignocellulosic biomass gasification by integrating catalytic partial oxidation (CPO) with gasification. The overall goal of the program is to design and develop an efficient process that produces syngas with a quality of 3 volume percent or less of methane, 10 ppm or less benzene, 1 ppm or less hydrogen sulfide, 10 ppm or less ammonia, and 10 ppb or less hydrogen.

The total cost of the project is approximately \$1 million with the Petitioner providing 20% cost sharing. This waiver is contingent upon the Petitioner maintaining, in aggregate, the above cost sharing percentages over the course of the cooperative agreement.

As noted in its waiver petition, Petitioner has significant experience in many key technologies required for the conversion of biomass to gas to syngas through gasification, and is a world leader in gasification and CPO technologies. The Petitioner also has specific experience in the areas of CPO catalyst development and reaction engineering. Furthermore, Petitioner will employ the use of its high-throughput catalyst screening unit at the GE Global Research Center in Niskayuna, NY.

Considering Petitioner's technical expertise and significant investment in this technology including sizable cost sharing in this cooperative agreement, it is reasonable to conclude that Petitioner will continue to develop and ultimately commercialize the technology and products which may arise from this cooperative agreement.

Petitioner has agreed that this waiver shall be subject to the march-in and preference for U.S. industry provisions, as well as the U.S. Government license, comparable to those set out in 35 U.S.C. 202-204. Further, Petitioner has agreed to the attached U.S. Competitiveness provision paragraph (t). In brief, Petitioner has agreed that products embodying a waived invention or produced through the use of a waived invention will be manufactured substantially in the United States unless the Petitioner can show to the satisfaction of the DOE that is not commercially feasible to do so.

Referring to item 10 of the waiver petition, granting this waiver is not anticipated to have any adverse impact on competition. If anything, the technology forming the subject matter of the collaboration can be expected to stimulate competition. GE

GLOBAL has an extensive history of partnership and licensing arrangements with companies in various commercial markets.

Considering the foregoing, it is believed that granting this waiver will provide Petitioner with the necessary incentive to invest its resources in the commercialization of the results of the cooperative agreement in a fashion which will make the above technology available to the public in the shortest practicable time. Therefore, upon evaluation of the waiver petition and in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver be granted.

/Brian J. Lally/

Brian J. Lally

Assistant Chief Counsel

Intellectual Property Law Division

DOE Chicago Office

Date: May 8, 2009

Based upon the foregoing Statement of Considerations and representations in the attached waiver petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of the cooperative agreement, where through such modification or extension, the purpose, scope or cost of the cooperative agreement has been substantially altered.

CONCURRENCE:



Vairi Anne Lighner
Acting Program Manager
Office of Biomass Program
EE-2E

Date: 6-16-09

APPROVAL:



Paul A. Gottlieb
Assistant General Counsel for Technology
Transfer and Intellectual Property

Date: 6-18-09

WAIVER ACTION - ABSTRACT
W(A)-09-001

REQUESTOR
GE GLOBAL

CONTRACT SCOPE
The objective of the project is development of an innovative gasifier configuration for selective elimination of tars in syngas produced from lignocellulosic biomass gasification by integrating catalytic partial oxidation (CPO) with gasification.

RATIONALE FOR DECISION
20% Cost Sharing

(t) U. S. Competitiveness

The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.