



# MANAGING CLEANTECH IP IN A CHALLENGING ECONOMY

**APRIL 30, 2020**

Brian Lee and Roch Ripley



# LEGAL DISCLAIMER

- The presentation today is not intended as legal advice.
- Because this is a high level overview, it is impossible to cover all relevant details, and available rights and remedies will depend on the unique facts of each situation.
- For specific advice, please consult with your qualified legal counsel before making any decisions or taking any action.
- As you know, the situation is extremely fluid and is changing on a daily basis. As things evolve, your best course of action could also evolve. Follow up to date and reliable sources for your information.

# THE STORM IS COMING (OR IS ALREADY HERE)

Star Edition  
LOCATION

**THE STAR**

CANADA POLITICS WORLD **OPINION** LIFE SPORTS ENTERTAINMENT BUS

Star Columnists Editorials **Contributors** Letters To The Editor Editorial Cartoons

**CONTRIBUTORS** **OPINION**

## COVID-19's impact: not recession, but a completely different economics

## COVID-19 recession scenarios for B.C.: one is bad; one is worse

By Jock Finlayson, Ken Peacock | April 7, 2020

ECONOMICS

## RBC sees recession in Canada amid COVID-19 outbreak, oil crash

The Canadian Press

Business · Analysis

## How bad will Canada's COVID-19 recession be?

[f](#) [in](#) [t](#) [✉](#) [v](#)

2 million jobs could be at stake, and the economy could shrink by more than it did in 2009

 Pete Evans · CBC News · Posted: Mar 27, 2020 4:00 AM ET | Last Updated: March 27



# AGENDA

Topic	Speaker
<b>Weather the Storm:</b> despite economic headwinds it remains critical for cleantech businesses to continue protecting their innovations	Brian Lee
<b>Manage Your IP Spend:</b> tips and strategies to economically and responsibly manage cleantech IP in challenging economic conditions	Roch Ripley

# CLIMATE CHANGE EMERGENCY WILL STILL REMAIN AFTER COVID-19



First published on The Economist, U.K., April 24, 2020 | By Kal

# CLIMATE CHANGE EMERGENCY WILL STILL REMAIN AFTER COVID-19

- **“Climate Change is the defining issue of our time and we are at a defining moment”**

*UN Intergovernmental Panel on Climate Change (IPCC)*

- **Limiting global warming to 1.5°C would require “rapid and far-reaching” transitions in land, energy, industry, buildings, transport, and cities**
- **Coronavirus crisis on course to deliver the steepest annual fall in CO2 in history**
- **But such a reduction still would not even come close to bringing the 1.5°C global warming target set out in the *Paris Agreement* within reach**

# INVESTING IN CLEAN TECHNOLOGY A KEY NATIONAL PRIORITY

- **Federal government allocated \$1.8 billion for investments in clean technology**
- **Clean energy is already one of the fastest growing sectors in the Canadian economy**
- **Canadian cleantech companies rank highly in *Global Cleantech Index* in research ecosystem and skilled workforce, but low on access to investment**

# RESOURCES FOR CLEANTECH BUSINESSES



The screenshot shows the Government of Canada website header with the Canadian flag and the text "Government of Canada" and "Gouvernement du Canada". Below the header is a navigation menu with options: Jobs, Immigration, Travel, Business, Benefits, and Health. A breadcrumb trail reads: Home → Science and innovation → R&D and innovation → Clean technology → Clean Growth Hub. The main heading is "Clean Growth Hub". Below this is a light blue banner with an information icon and the text "Resources for Canadian Businesses" and "Managing your business during the COVID-19 outbreak". At the bottom is a large graphic for the "CLEAN GROWTH HUB" featuring a stylized tree with various icons representing clean technology and sustainability.

**Clean technology programs and initiatives**

**Clean technology data strategy**

**Events**

**News**

<https://www.ic.gc.ca/eic/site/099.nsf/eng/home>



# WIPO GREEN: A MARKETPLACE FOR SUSTAINABLE TECHNOLOGY



WIPO GREEN is an online platform for technology exchange. It supports global efforts to address climate change by connecting providers and seekers of environmentally friendly technologies. Through its database, network and acceleration projects, it brings together key players to catalyze green technology innovation and diffusion.

<https://www3.wipo.int/wipogreen/en/>

# PROTECTING CLEANTECH INNOVATION A KEY TO SUCCESS

- **Canadian cleantech sector scores low in Global IP benchmark, with only 21% SMEs holding patents**
- **Most cleantech patents in Canada assigned to foreign multinationals**
- **“world-first innovators patent more frequently ... firms that patent infrequently tend to be imitators”**
- **“SMEs that patent are more likely to be high growth firms”**
- **“firms that are aggressive innovators ... have higher profits”**
- **“while some inventions are not patented, patents are obtained for almost all economically significant inventions”**



# CLEANTECH PATENTING TRENDS

- 75% of cleantech patents focused on six areas: advanced materials, energy efficiency, energy storage, biofuels, fuel cells and hydrogen, and transportation
- Canadian Cleantech IP filings
  - growing in: geothermal, nuclear, energy storage, conventional fuels
  - large but slowing in: solar, transport, energy efficiency
  - slowing in: hydro, marine power
- China has >40% of patent ownership in global cleantech IP (Canada has ~ 1.1%)

Figure 2: CCMT Landscape Map of Patent Families Linked to Canadian Researchers

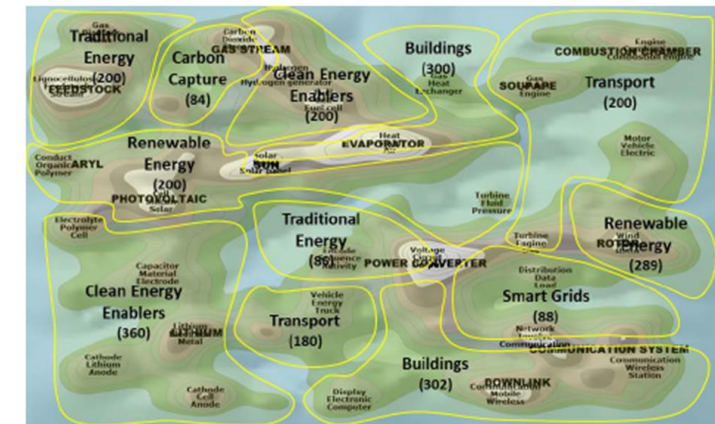
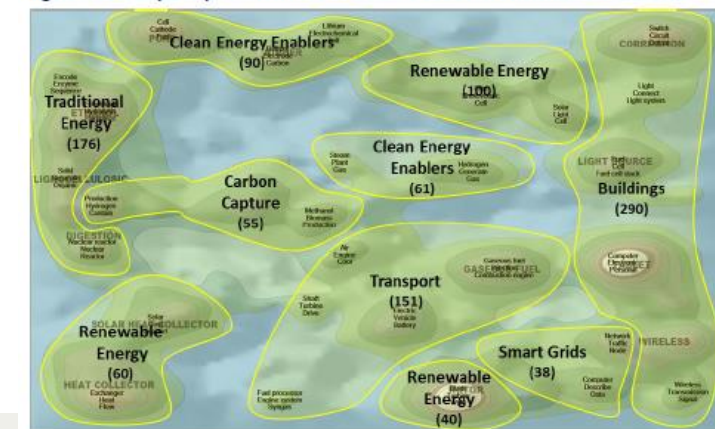


Figure 7: Landscape Map of Patent Families Linked to Canadian Businesses and Institutions



# FAILURE TO ENGAGE IP SYSTEM WILL RESULT IN PERMANENT LOSS OF RIGHTS

- **All patent offices are “first to file” – no more “first to invent”**
- **Trade secret protection only available if not possible to reverse engineer technology**
- **Failure to protect your IP means you have donated your technology to the public domain**

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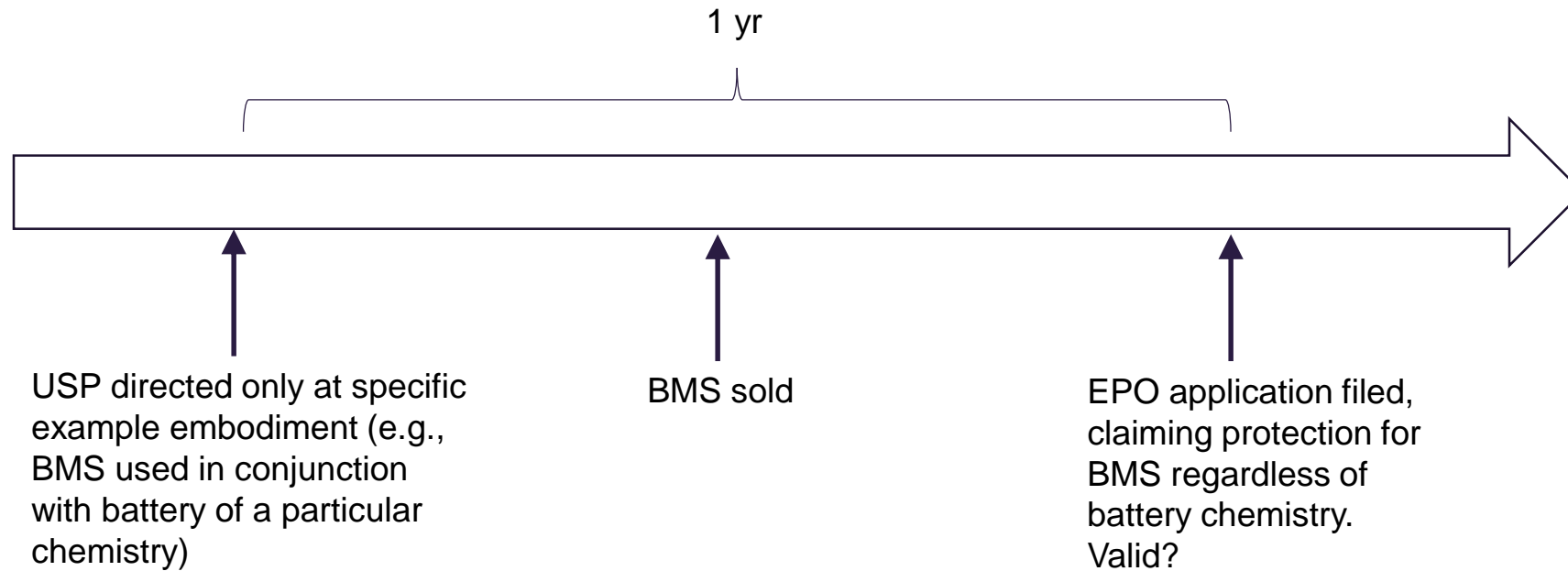
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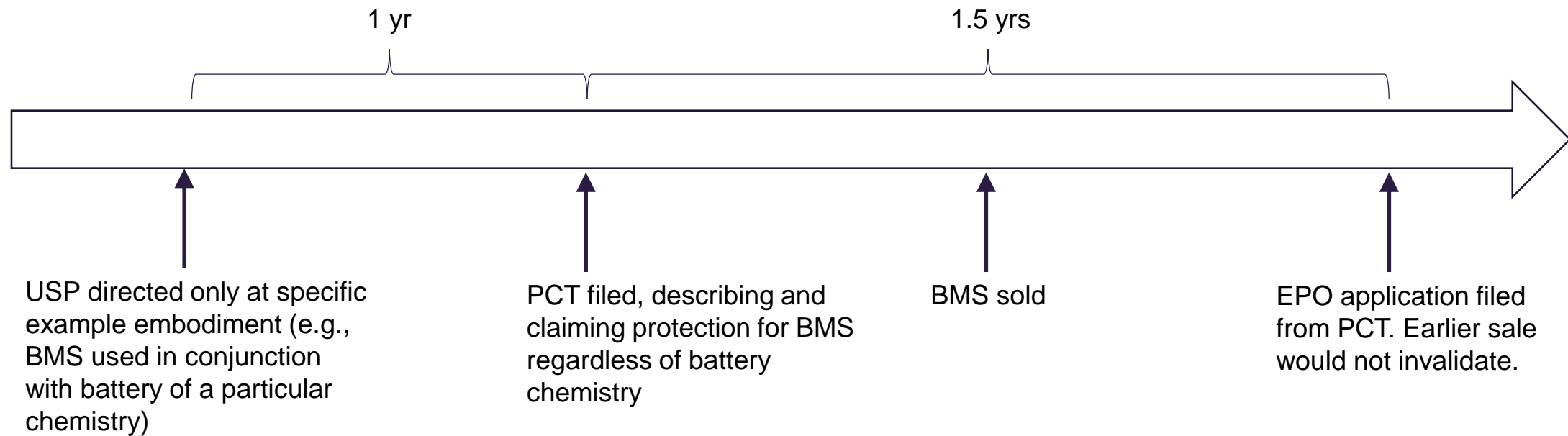
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- **Can't put smoke back in the bottle**

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- **Extensions of Time and Culling**

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# CONCLUSION

- **Demand for cleantech will remain strong after COVID-19**
- **Protecting IP rights should still be a priority even in challenging economic conditions**
- **Managing spend is a risk allocation exercise**
- **Understand where you're willing to tolerate risk in your business, where you have flexibility in your product development and commercialization strategy, and apply the legal tools and techniques available to arrive at the best outcome possible**

**QUESTIONS?**


# THANK YOU



## Brian Lee

*Partner*

 brian.lee@gowlingwlg.com

 +1 604 443 7682

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## Roch Ripley

*Partner*

*Head of Vancouver IP Department*

 roch.ripley@gowlingwlg.com

 +1 604 443 7632

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**GOWLING WLG**