

# *AIA Section 102 now being seen in litigated cases*

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## Roadmap

- 1 Overview of AIA § 102
- 2 102(a): prior art
- 3 102(b): exceptions
- 4 Emerging trends

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## Overview of AIA § 102

Applies to effective filing dates on or after **March 16, 2013**.

- Pub. L. 112–29, 112<sup>th</sup> Congress  
125 STAT. 293 (Sept. 16, 2011)

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## Overview of AIA § 102

Apply AIA § 102 when application contains  
– *or contained at any time* –  
a claim with an effective filing date on or  
after **March 16, 2013**.

Mixed: Both pre- and post-AIA claims

Apply:

- AIA to all claims, but also
- pre-AIA § 102(g) to all claims

<b>App. never included anything other than pre-AIA claims</b>	<b>Pre-AIA</b>
<i>e.g.</i> , (i) application filed before <i>March 16, 2013</i> , or (ii) continuation or divisional (or priority chain of only continuations/divisionals) of application filed before March 16, 2013	
<b>App. never included anything other than post-AIA claims</b>	<b>AIA</b>
<i>e.g.</i> , new application filed on or after March 16, 2013; no priority claim	
<b>App. at any time included at least one pre-AIA claim, and at any time at least one post AIA claim</b>	<b>AIA but also Pre-AIA 102(g)</b>
<i>e.g.</i> , CIP filed on or after March 16, 2013, with claims based on both pre-March 16 matter and post March 16 matter	
<b>Pre AIA claims:</b>	The claims have full written description support in the filings before March 16, 2013.
<b>Post AIA claims:</b>	The claims rely at least in part on subject matter in the written description filed on or after March 16, 2013

## 1 Overview of AIA § 102

- Simplification
- “Global” harmonization
- Trade secret harmonization?

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