

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, 112th 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

App. never included anything other than pre-AIA claims		Pre-AIA
<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		
App. never included anything other than post-AIA claims		AIA
<i>e.g.</i> , new application filed on or after March 16, 2013; no priority claim		
App. at any time included at least one pre-AIA claim, and at any time at least one post AIA claim		AIA <u>but also</u> Pre-AIA 102(g)
<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		
<u>Pre AIA claims:</u>	The claims have full written description support in the filings before March 16, 2013.	
<u>Post AIA claims:</u>	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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