

# *The “New” On-Sale Bar Under The AIA*

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## Overview

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- Change (in § 102 re on-sale bar)
- Circumstances (*Helsinn* Parallel Analysis)
- Past (District Court)
- Present (Federal Circuit)
- Future (Rehearing *En Banc*)
- Conclusions and Questions

## The Change

### § 102(b) (pre-AIA)

#### Conditions for patentability; novelty and loss of right of patent.

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

### § 102(a)(1) (post-AIA)

#### Conditions for patentability; novelty

(a) **Novelty; Prior Art** – A person shall be entitled to a patent unless –

(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention

## The Change

### § 102(b) (pre-AIA)

in public use or  
on sale

### § 102(a)(1) (post-AIA)

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- Floor Remarks
- Commentators
- USPTO
- Articles

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