

From: Bobay, Erin [ e-mail address redacted]  
Sent: Thursday, September 08, 2011 1:05 PM  
To: ai\_a\_implementation  
Subject: Clarification on the Description of the Proposed First Inventor to File provision

Hi,

I was looking at your "Areas for Comments (Anticipated Rulemaking and Draft Guidance)" document in which you state:

First Inventor to File 35 U.S.C. 102 Effective date (pages 23-4): Takes effect 18 months from date of enactment; and Applies to any application and patent (i) with a claim having an effective date on or after enactment, or (ii) having a specific reference under sections 120, 121, or 365(c) to an application having such a claim.

I think it is a little confusing when you say it applies to any application and patent with a claim having an effective date on or after enactment. Thus, I think it would be good to clarify that it applies to any application and patent with a claim having an effective date on or after 18 months from the date of enactment (i.e., that applications with an effective date on or after 18 months from the date of enactment will be on the first inventor to file system and NOT applications with an effective date on the date of enactment will change over to the first inventor to file system 18 months after the date of enactment).

This is consistent with Section 3(n)(1) (p. 23-24), which states that the amendments made in Sec. 3 apply to "any application for patent, and to any patent issuing thereon that contains or contained at any time – (A) a claim to a claimed invention that has an effective filing date ... that is on or after the effective date described in this paragraph" (emphasis added).

If this is incorrect please let me know!

Thanks,  
Erin