FLOWCHARTS FOR 35 U.S.C. § 102(e) DATES:

Apply to all applications and patents, whenever filed

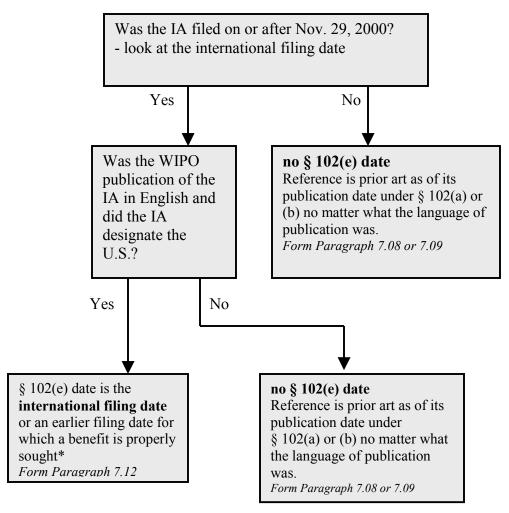
Chart I: For **U.S. patent or U.S. patent application publication** under 35 U.S.C. §122(b) (includes publications of § 371 applications)

Is the reference a U.S. patent or U.S. application publication of an International Application (IA)? (look for "35 U.S.C. § 371" on the reference, which would indicate National Stage was entered) Yes No § 371 Was the IA filed on or after Nov. 29, 2000? Is there an IA in the continuity chain for which a (National benefit is properly sought via §§ 120 or 365(c)? - look at the international filing date Stage) Yes No No IA Yes No involved The reference was filed under § 111(a) and only claims benefit to other U.S. applications For a patent: § 102(e) date is filed under § 111(a) or (b) or does not make Was the WIPO the § 371(c)(1), (2) and (4) date any benefit claims. publication of the Form Paragraph 7.12.01 The § 102(e) date of the reference is the IA in English and For a U.S. appl. publication: earliest U.S. filing date for which a benefit is did the IA no § 102(e) date properly sought via §§ 119(e) and/or 120 (do designate the Reference is prior art as of its not consider foreign priority claims under publication date under § 102(a) or (b) **U.S.?** §§ 119(a)-(d)). Form Paragraph 7.12 Form Paragraph 7.08 or 7.09 Yes No Benefit claim to Was the IA filed on or after Nov. 29, 2000? an IA (§§ 120 or - look at the international filing date 365(c)) For a patent and a No U.S. application Yes publication: § 102(e) For a patent: § 102(e) date is the date is the Was the WIPO publication § 371(c)(1), (2) and (4) date; or § 111(a) international filing of the IA in English and filing date if the IA never entered national date or an earlier did the IA designate the stage. filing date for which **U.S.?** Form Paragraph 7.12.01 a benefit is properly No For a U.S. application publication: § Yes 102(e) date is the filing date of the U.S. sought* application that claimed benefit to the IA Form Paragraph 7.12 Form Paragraph 7.12 For a patent and an application publication: For a patent and a U.S. § 102(e) date is the application publication: **no** For a patent and a U.S. international filing § 102(e) date application publication: date or an earlier date Reference is prior art as of its § 102(e) date is the filing date publication or grant date under for which a benefit is of the U.S. application that § 102(a) or (b) properly sought* Form Paragraph 7.08 or 7.09 claimed benefit to the IA Form Paragraph 7.12 Form Paragraph 7.12

^{*} Consider benefit claims properly made under § 119(e) to U.S. provisional applications, § 120 to U.S. nonprovisional applications, and § 365(c) involving IAs. Do NOT consider foreign priority claims.

FLOWCHARTS FOR 35 U.S.C. § 102(e) DATES:

Apply to all applications and patents, whenever filed Chart II: For **WIPO publication of International Applications** (IAs)



^{*} Consider benefit claims properly made under § 119(e) to U.S. provisional applications, § 120 to U.S. nonprovisional applications, and § 365(c) involving IAs. Do NOT consider foreign priority claims.

Glossary of Terms: U.S. patent application publication = pre-grant publication by the USPTO under 35 U.S.C. § 122(b) International application (IA) = an application filed under the Patent Cooperation Treaty (PCT) § 371 application = an IA that has entered the national stage in the U.S. (35 U.S.C. § 371(c)(1), (2) and (4)) November 29, 2000 = the effective date for the amendments to §§ 102(e) and 374 WIPO = World Intellectual Property Organization WIPO Publication = a publication of an IA under PCT Article 21(2) (e.g., Publication No. WO 99/12345) § 111(a) = provision of the patent code that states the filing requirements for nonprovisional applications § 111(b) = provision of the patent code that allows for priority claims to provisional applications § 119(a)-(d) = provision of the patent code that allows for priority claims to foreign applications § 120 = provision of the patent code that allows for benefit claims to nonprovisional applications § 365(c) = provision of the patent code that allows for benefit claims to international applications