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Changes to Implement the First Inventor to File Provisions of the Leahy-Smith America Invents Act

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Changes to Implement First Inventor to File Provisions of Leahy-Smith America Invents Act

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General Comment

While ample regulation has been proposed in an attempt to prevent misuse of the system, it is impractical to think that a “first to file” patent process will not be exploited by unethical individuals. This kind of system opens the door for the theft of intellectual property by nefarious individuals who, upon becoming aware of an invention, may file a patent for, and thereby profit from, that invention without having actually contributed to or participated in the inventing process. Under these particular circumstances, the “first to invent” system allows for an inventor to clearly timestamp his invention by making a public demonstration of said invention. With the “first to file” system, any individual exploiting the system could claim that their stolen idea was “independently invented” without prior knowledge of the original inventor’s idea. While this can be true in some circumstances (for example, the invention of the telephone), these cases are surely quite rare.