

From: Kamholz, Scott [e-mail address redacted]
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To: aia_implementation
Subject: Third party submission of prior art for patent application

The USPTO regularly refers to the Sec. 8 provision as "third party submission of prior art" (emphasis added). Please recognize that submissions under Sec. 8 of the AIA are not limited to prior art. The section states that a third party may submit "any patent, published patent application, or other printed publication of potential relevance to the examination of the application." The submitted material need not be prior art so long as it is a printed publication that is potentially relevant to some aspect of examination. For example, the printed publication might contain evidence of best-mode nondisclosure, or of incorrect inventorship, or of information that is inconsistent with a position the applicant has taken in asserting an argument of patentability. In short, the Office should issue rulemaking that is consistent with the scope of AIA Sec. 8 and that does not introduce artificial limitations.

Sincerely,
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