

From: Stan Delo [e-mail address redacted]
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To: aia_implementation
Subject: Definition of disclosure in section 102

It has come to my attention that the term "disclosure" has not been addressed adequately in the Leahy Smith America Invents Act, which has been noted by several very knowledgeable Patent Attorneys on a few different prominent patent blogs. It seems as if there is some confusion about what constitutes "disclosure". and how it might have damaging consequences for said attorneys' clients, unless the definition of "disclosure" is more accurately defined by the USPTO during the implementation of the Leahy-Smith America Invents Act. In the AIPPLA comments, Pedersen points out some of the possible problems, which I herewith applaud. As Hal Wegner pointed out in the Foley Lardner presentation about the AIA, the legislation took about four 102 sections, and attempts to mash them all into a single paragraph, with arguably a fair amount of confusion resulting from the Congress inadequately considering the import of their hasty writing of the relevant portions of the H.R. 1249 legislation. Also, the 1249 bill has several editing notices at the end of the bill, which makes it nearly impossible to really understand the bill, unless several weeks are spent trying to apply said "corrections" to the language of the legislation. Until that editing has been done, and a Technical amendment to the language used in the bill by the USPTO has been suggested, the bill as written will be very confusing for several years at least. There is no clear way to determine whether public publication, offer for sale, previous patent applications as in PPA's, or public use for testing purposes, or conveying the concepts using improper non-disclosure agreements will become bars to acquiring patent rights.

Respectfully yours,
Stan E. Delo
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