

35 USC § 102(e) AFTER H.R. 2215¹

“A person shall be entitled to a patent unless —
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(e) the invention was described in
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,
except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or” (Emphasis added.)

(See Slide #8 of the Slide Presentation, *Training Guide* – Sect. IV)

35 USC § 374 AFTER H.R. 2215

“The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall be deemed a publication under section 122(b), except as provided in sections 102(e) and 154(d) of this title.”

(See Slide #9 of the Slide Presentation, *Training Guide* – Sect. IV)

H.R. 2215 Statutory Changes to the Effective Date Provisions

EFFECTIVE DATE PROVISIONS (section 4508 of AIPA as revised by HR 2215).
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Except as otherwise provided in this section, the amendments made by section 4505* shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000. (Emphasis added.)

*Section 4505 of the AIPA set forth the revision to § 102(e)

(See Slides #10-11 of the Slide Presentation, *Training Guide* – Sect. IV)

¹ **Exception:** The relevant effective date provision of HR 2215 requires that the old (Pre-AIPA) §102(e) applies when the prior art reference is a patent issued (directly or indirectly) from an IA which was filed before 11/29/00