

Eric E. Johnson ericejohnson.com



For your convenience : ...
Before we build this all up,
the next two slides are
where we end up at the end
of this slide show.

As amended by the America Invents Act of 2011 Effective for applications filed on or after March 16, 2013

- (a) NOVELTY; PRIOR ART. A person shall be entitled to a patent unless –
- (1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention; or
- (2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

Your invention is considered novel unless:

DQ#1: Your invention was out there in the open in the world before the day you applied. **or**

DQ#2: Before the day you applied, someone had already applied for a U.S. patent, and that application ended up later being unsealed and made public.

35 U.S.C. § **102**, (AIA version, for post March 15, 2013 filers), **continued** ...

- (b) EXCEPTIONS. -
- (1) DISCLOSURES MADE 1 YEAR OR LESS BEFORE THE EFFECTIVE FILING DATE OF THE CLAIMED INVENTION. – A disclosure made 1 year or less before the effective filing date of a claimed invention shall not be prior art to the claimed invention under subsection (a)(1) if –
- (A) the disclosure was made by the inventor or joint inventor or by another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or
- (B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor. ...

But you can get out of any DQ'ing disclosure two ways:

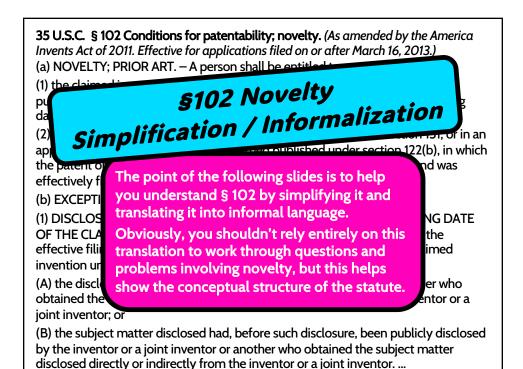
Immunity#A: The DQ'ing disclosure wasn't more than a year before you applied and the disclosure came from you (even indirectly), or

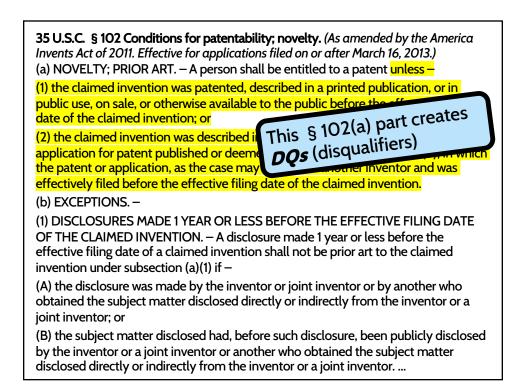
Immunity#B: The DQ'ing disclosure wasn't more than a year before you applied and even though it didn't come from you, it at least came after a disclosure that did come from you.

And now, to build this up bit by bit ...

35 U.S.C. § 102 Conditions for patentability; novelty. (As amended by the America Invents Act of 2011. Effective for applications filed on or after March 16, 2013.)

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(A) the disclosure was made by the inventor obtained the subject matter disclosed direct joint inventor; or

This § 102(b) part provides *immunities* (relief from the disqualifiers)

(B) the subject matter disclosed had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or another who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor. ...

First: The § 102(a) part, the *DQs* (disqualifiers)

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Next: The § 102(b) part, the *immunities* (relief from disqualifiers)

35 U.S.C. § **102**, (AIA version, for post March 15, 2013 filers), **continued** ...

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