

# PATENT REFORM EFFECTIVE DATES CHECKLIST

September 16, 2012 marks the one-year anniversary of the enactment of the Leahy-Smith America Invents Act (“AIA”) and is the default effective date of the Act. The default effective date is set in Section 35 of the Act, which provides that “Except as otherwise provided in this Act, the provisions of this Act shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.” Because the bill was enacted upon President Obama’s signature on September 16, 2011, the effective date of the AIA is the expiration of the one-year period that followed. There are, however, many exceptions within the AIA. We have included the adjacent checklist for ease of reference in understanding which key provisions are now in effect, including those that have already been in effect, and which ones are not yet effective.

For additional information please visit our [Patent Reform Resource Center](#) which contains an overview of the revisions [here](#) and [here](#), as well as other articles, PowerPoint presentations, upcoming events, and a link to the USPTO’s Implementation information.

In Effect?	Issue (§ of AIA)	Effective as of...	
NEWLY EFFECTIVE <input checked="" type="checkbox"/>	Inter partes review (§6)	<b>September 16, 2012</b> Applies to any patent issued before, on, or after that date. Replaces inter partes reexamination	
	Pre-issuance submissions by third parties (§8)	<b>September 16, 2012</b> Applies to any patent application filed before, on, or after that date.	
	Supplemental examination (§12)	<b>September 16, 2012</b> Applies to any patent issued before, on, or after that date.	
	Assignee of invention may file a patent application (§4)	<b>September 16, 2012</b> Applies to any patent application filed on or after this effective date.	
	Transitional program for business method patents relating to financial products or services (§18)	<b>September 16, 2012</b> Applies to any covered business method patent issued before, on, or after that date (with exceptions).	
ALREADY IN EFFECT <input checked="" type="checkbox"/>	Elimination of best mode defense (§15)	<b>September 16, 2011</b> Applies to any proceedings commenced on or after that date.	
	Defense to infringement based on prior commercial use (§5)	<b>September 16, 2011</b> Available as a defense to all patents issued on or after that date.	
	Elimination of tax-strategy patents (§14)	<b>September 16, 2011</b> Applies to any patent application pending on, or filed after that date and to any patent that is issued on or after that date.	
	Prohibition against patents “directed to or encompassing a human organism” (§33)	<b>September 16, 2011</b> Applies to any patent application pending on, or filed on or after that date.	
	Virtual marking and elimination of qui tam false marking cases (§16)	<b>September 16, 2011</b> Applies to all cases that are pending on, or commenced on or after that date.	
	Joinder of parties (§19)	<b>September 16, 2011</b> Applies to any civil action commenced on or after that date.	
	New Fees (§11)	<b>September 16, 2011</b> (with exceptions): A 15% surcharge was added to all patent-related fees as of September 26, 2011.	
	End of fee diversion: USPTO’s fees directed to reserve account (§22)	<b>October 1, 2011</b>	
	COMING IN 2013 <input type="checkbox"/>	Transition from first-to-invent to first-to-file (§3)	<b>March 16, 2013</b> Applies to any patent application that has an effective filing date on or after this effective date.
		Post-grant review (§6)	“Effective” <b>September 16, 2012</b> , BUT only applies to patents issued from applications with an effective filing date on or after <b>March 16, 2013</b> (with limited exceptions).
Repeal of Statutory Invention Registration (§3)		<b>March 16, 2013</b>	