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Details

Reprinted from the August 2017 issue of [ALI CLE's *The Practical Lawyer*](#).

Topics

Intellectual Property

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Mitigating Risk at the Intersection of Business and Patents

The Practical Lawyer

Holly Johnston authored an article in the August 2017 edition of *The Practical Lawyer* titled “Mitigating Risk at the Intersection of Business and Patents.” The article discusses the changes enacted in 2011 to the language of the on-sale bar section of the American Invents Act (U.S.C. §102). Many practitioners — and the U.S. Patent and Trademark Office — have treated the changes as a requirement that a sale or offer to sell must include a publicly available description of the claimed invention in order to trigger the bar.

Since its enactment, confusion around the changed statutory language of the section has led to issued patents that may be vulnerable. Johnston explains the current state of the law for the on-sale bar and distills its application into practical advice to better enable an understanding of the intersection between business and patents. Understanding this intersection will help mitigate the risk that selling or offering to sell products or services that incorporate inventions can have on a business.