

## Joe Matal Authors IP Watchdog OpEd About 10th Anniversary of AIA

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**PRACTICES** Intellectual Property Litigation, Intellectual Property

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“The last half century’s legislation simply extended to post-issuance review what the American system has recognized about examination since the 1836 Act: that a knowledge of the background technology (and a grounding in patent law) is a prerequisite to making informed decisions about patentability.”

When the America Invents Act (AIA) was before Congress a decade ago, it was heralded as the first comprehensive patent law since the 1952 Act. Ten years’ perspective on the new law, however, shows that its changes to patent policy have been more evolution rather than revolution. The AIA is simply the latest step in the long arc of moving U.S. law toward a more objective and logical patent system—and one that produces more accurate results.

### **Finally, First Inventor to File**

When the AIA adopted the first inventor to file priority system, the United States did not simply join the majority of countries. All nations in the world had been operating under first inventor to file for 15 years by the time the AIA implemented that system. This meant that, as a practical matter, the overwhelming majority of U.S. filers who also want foreign patent rights were already obligated to be the first inventor to file an application. The AIA’s switch simply meant that U.S. applicants need only comply with one priority system rather than with two.

The first inventor to file rule also makes the patent system more transparent. Under the old system, a patent’s priority date was never certain until it was litigated. If competing patents filed close in time claimed the same invention, no one could know who had priority, and it was never certain what would qualify as prior art against a patent. By applying an objective rule based on the filing date of a government document, the AIA allows a business or investor to make its own evaluation of patent rights without the need to resort to the courts to resolve priority questions.

Excerpted from *IP Watchdog*. To read the full article, click [here](#).