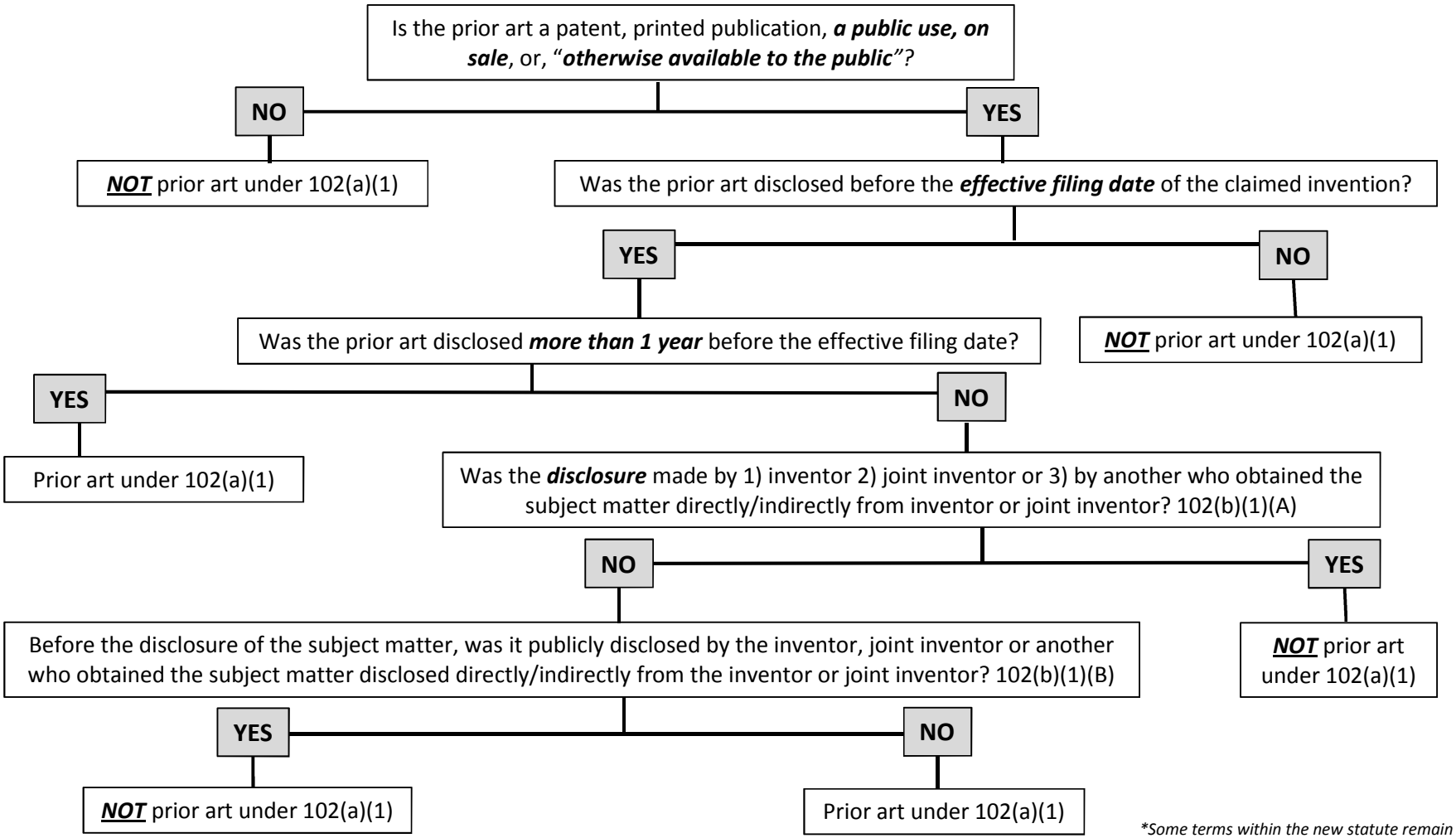
ALSTON + BIRD LLP

Atlanta • Brussels • Charlotte • Dallas • Los Angeles • New York • Research Triangle • Silicon Valley • Ventura County • Washington, D.C.
www.alston.com

35 U.S.C. §102(a) And (b) as Amended By The "America Invents Act"

Presented by:
Murray Spruill, Ph.D., J.D.
Biotechnology and Pharmaceutical
Patent Practice Group Leader
murray.spruill@alston.com
919-862-2202

Flow Chart for 102(a)(1) and 102(b)(1) Analysis



*Some terms within the new statute remain unclear. Their meanings will likely be clarified by the courts.

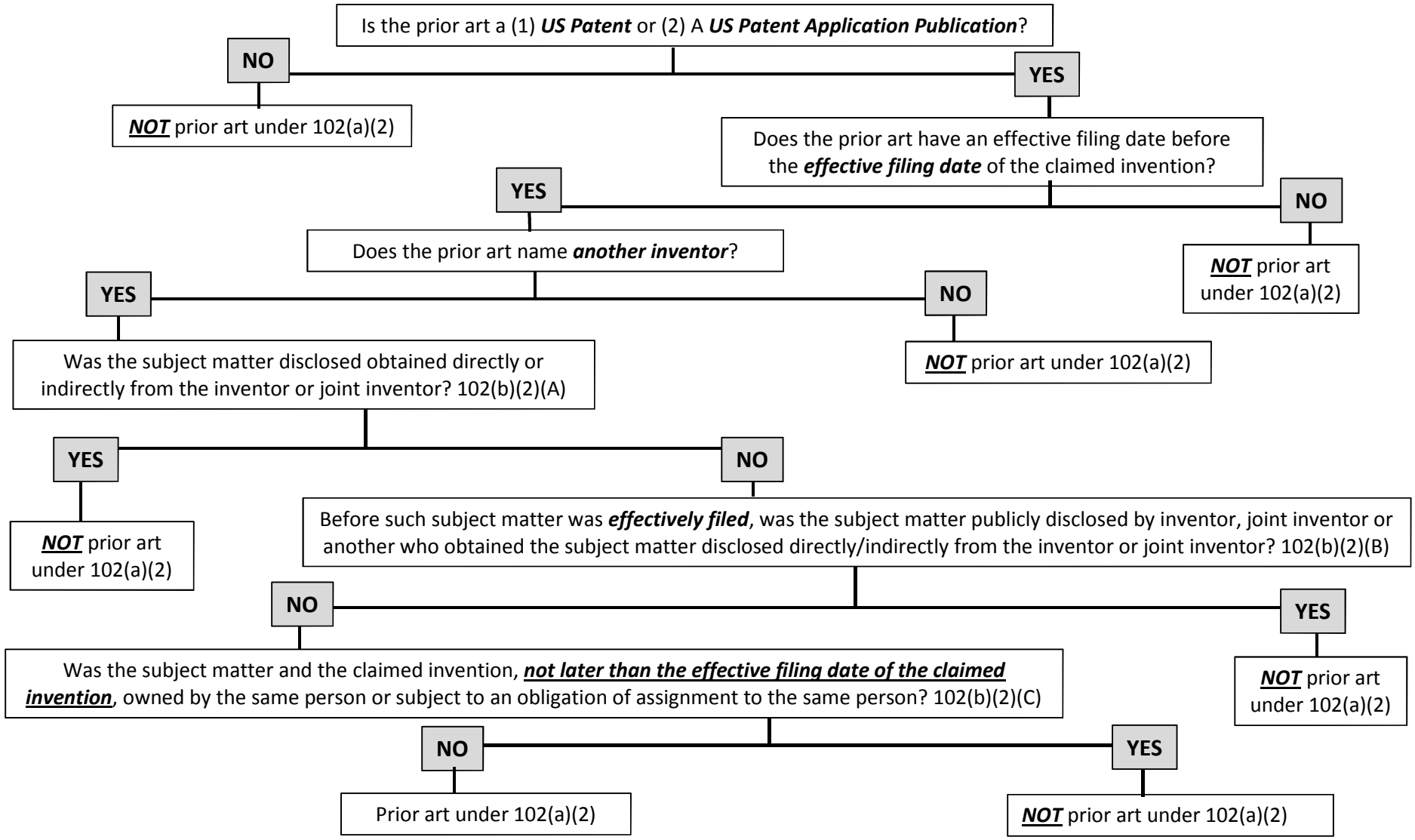
ALSTON + BIRD LLP

Atlanta • Brussels • Charlotte • Dallas • Los Angeles • New York • Research Triangle • Silicon Valley • Ventura County • Washington, D.C.
www.alston.com

Presented by:
Murray Spruill, Ph.D., J.D.
Biotechnology and Pharmaceutical
Patent Practice Group Leader
murray.spruill@alston.com
919-862-2202

35 U.S.C. §102(a) And (b) As Amended By The "America Invents Act"

Flow Chart for 102(a)(2) and 102(b)(2) Analysis



**Some terms within the new statute remain unclear.*
Their meanings will likely be clarified by the courts.

ALSTON + BIRD LLP

Atlanta • Brussels • Charlotte • Dallas • Los Angeles • New York • Research Triangle • Silicon Valley • Ventura County • Washington, D.C.
www.alston.com

35 U.S.C. §102(a) And (b) As Amended By The "America Invents Act"

Presented by:
Murray Spruill, Ph.D., J.D.
Biotechnology and Pharmaceutical
Patent Practice Group Leader
murray.spruill@alston.com
919-862-2202

America Invents Act: 35 U.S.C. § 102(a) and (b)

(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.

(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.

(2) DISCLOSURES APPEARING IN APPLICATIONS AND PATENTS.—A disclosure shall not be prior art to a claimed invention under subsection (a)(2) if—

(A) the subject matter disclosed was obtained directly or indirectly from the inventor or a joint inventor;

(B) the subject matter disclosed had, before such subject matter was effectively filed under subsection (a)(2), 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; or

(C) the subject matter disclosed and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

Effective date is March 16, 2013. It applies to any application and patent (i) with a claim having an effective date on or after March 16, 2013, or (ii) having a specific reference under §120, 121, or 365(c) to an application having such a claim.

ALSTON + BIRD LLP

Atlanta • Brussels • Charlotte • Dallas • Los Angeles • New York • Research Triangle • Silicon Valley • Ventura County • Washington, D.C.
www.alston.com

35 U.S.C. §102(a) And (b) As Amended By The "America Invents Act"

W. Murray Spruill, Ph.D., J.D.
Partner
Biotechnology and Pharmaceutical Patent Practice Group Leader
murray.spruill@alston.com
919-862-2202

Murray Spruill is chair of Alston & Bird's Biotechnology and Pharmaceutical Patent Group. His intellectual property law practice focuses on providing services relating to all areas of patent law, including patent drafting and prosecution, general patent counseling and strategic planning, patentability, freedom to operate, infringement opinions and licensing. His clients include large corporations, mid-sized companies, small start-ups, universities and research institutions. Dr. Spruill's scientific expertise includes genetics, cellular and molecular biology, biochemistry, immunology, pharmaceuticals and small molecule therapeutics. He has combined this scientific background with extensive legal expertise to provide high quality services for his clients.

He is a frequent author and speaker on topics dealing with biotechnology and pharmaceutical patent law. He is lead author or co-author on over 25 publications such as *Nature Biotechnology, Current Drug Discovery, Legal Times, The Scientist, BNA's Patent, Trademark & Copyright Journal* and *Stanford Technology Law Review*. He has spoken to numerous professional organizations and institutions.

Prior to joining Alston & Bird, Dr. Spruill served as senior attorney for Ciba-Geigy Corporation where he was responsible for the supervision and management of the patent portfolio and intellectual property strategy for the biotechnology and pharmaceutical areas. While at Ciba-Geigy, he worked for a period of time in their European Office in Basel, Switzerland overseeing patent matters before the European Patent Office. In addition to his in-house experience, Dr. Spruill has practiced with private firms in Washington, D.C. and Palo Alto, CA, and served as a patent examiner with the U.S. Patent and Trademark Office.

Education
The George Washington University (J.D.)
North Carolina State University (Ph.D)
East Carolina University (B.S.)

Admitted to Practice
North Carolina
District of Columbia
U.S. Patent and Trademark Office
Virginia