
Prior Art: When On Sale Is Not 'On Sale'

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An article by [David Bassett](#) and [Christine Duh](#), published by *Law360* on June 2, 2016, addresses whether the on-sale bar now requires that sales or offers to sell be "public" to qualify as invalidating, and dissects a related case currently on appeal to the Federal Circuit.

Pursuant to Section 102 of the Patent Act, the "on-sale" bar can invalidate a patent when the claimed invention has been the subject of a commercial sale or offer for sale, and the invention is ready for patenting. Prior to the enactment of the Leahy-Smith America Invents Act, certain sales of (or offers to sell) the claimed invention—including a purely private transaction involving the patent applicant—could trigger the on-sale bar. [Read the full article](#)

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