4.3a-2 PRIOR ART
(For Patents Having an Effective Filing Date on or After March 16, 2013)

Prior art to a patent may include:

> (1) items that were publicly known or that have been used, on sale, or otherwise made available to the public before the filing date of the patent,
>
> (2) publications that were published or otherwise made available to the public before the filing date of the patent, and
>
> (3) patents and published patent applications naming another inventor that were filed before the filing date of the patent.

However, prior art does not include:

> an item or publication that (a) is the inventor's own work or (b) describes the inventor's own work or (c) was directly or indirectly obtained from the inventor, unless it was made public more than one year before the filing date of the patent's application, or
>
> a patent or patent application that (a) discloses the inventor's own work or (b) was directly or indirectly obtained from the inventor or (c) was owned by the same person or subject to an obligation of assignment to the same person.

[For anticipation:

For the claim to be invalid because it is not new, [alleged infringer] must show by clear and convincing evidence that all of the requirements of that claim were present in a single previous device or method that was known of, used, or described in a single previous printed publication or patent. We call these things "anticipating prior art." To anticipate the invention, the prior art does not have to use the same words as the claim, but all of the requirements of the claim must have been disclosed, either stated expressly or implied to a person having ordinary skill in the art in the technology of the invention, so that looking at that one reference, that person could make and use the claimed invention.]

Authorities

35 U.S.C. § 102(a)(1)-(2); 35 U.S.C. § 102(b)(1)-(2).