

From: ngeorgalis [e-mail address redacted]  
Sent: Sunday, September 25, 2011 8:40 AM  
To: ai\_implementation  
Subject: 102(b)(2)(C) is unconstitutional

§ 102. Conditions for patentability; novelty

...  
(b) EXCEPTIONS. —

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

...

(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.

Under this statute what would prevent the applicant from purchasing all the prior art references and thereby obtaining a patent?

Also how does this prevent the owner of an existing patent from simply filing for the same patent, then purchasing the prior art and thereby extending his monopoly in perpetuity?

The US Constitution section 8 states in part "...To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries..."

Therefore it appears that 102(b)(2)(C) is unconstitutional.  
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