

US Senate Moving Ahead with Passing Unconstitutional, So-Called "Patent Reform" Legislation to Benefit the Multinational 'Robber Barons' and Wall Street

By

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This is the 4th straight Congress the Senator Leahy has tried to shove so-called 'Patent Reform' down America's throat. ⁱ

It is not bad enough that Congress has all but ignored tremendous opposition to this legislation, including 100,000s of small independent inventors and small businesses ^{ii iii} which create virtually *all the new jobs in America*. ^{iv} Rather so-called Patent Reform has been promoted by a few multinational IT companies and their buddies on Wall Street. ^v Why? So they can steal intellectual property from small businesses and individuals more easily and ship even more jobs overseas. ^{vi} What a surprise!

The recently passed Senate bill S.23, ^{vii} does nothing to solve the problems of *huge delays* in our patents system, and the unlimited, endless, and costly administrative ^{viii} and judicial challenges ^{ix} to patents which deter innovation and reduce the certainty and value of patents, and which will slow our economy.

Among other bad provisions, this S. 23 legislation changes the law from protecting the "first-to-invent" (FTI) - which our Constitution provides for and which our country has used for over 200 years to successfully produce some of the best inventions in history - to the "first-to-file" (FTF).

Statements by proponents of S. 23, that it would be cheap and easy for a small inventor to file a 'provisional application for patent' for only \$100, are inaccurate and disingenuous. Because they may very well be subject to endless challenges by well-funded infringers, *a patent application often is a complicated, carefully-written document. A well written application, including a 'provisional application,' can take 100s of hours and cost \$1000s if not \$10,000s to properly prepare and file.* If not done properly, a poorly prepared application will provide little or no protection to an inventor and be totally worthless.

In addition, many inventors might have dozens if not 100s of ideas, only a few of which will actually work; 98 of them resulting in 'dead-ends.' Under FTF, *a small inventor may have to prepare 100s of applications to ultimately protect only a few 'ideas.'* The additional 'backlog' on the PTO could be tremendous. These two facts alone show that FTF will likely be an unconscienceable burden on many a small inventor.

"First-to-File" will be just fine for IBM which has unlimited resources and over 300 full-time patent attorneys, but not for the typical 'small inventor.' ^x

Not only will "first-to-file" (FTF) cause tremendous problems for innovation, small inventors, the Patent office, and job creation,^{xi xii} there's just one small additional problem – *the law is clearly unconstitutional!*^{xiii}

Article I Section 8, Clause Eight of the US Constitution on which this legislation is supposed to be based and which, the last time I looked the supreme law of the land, provides for: "...securing...to...**Inventors** the exclusive right to their respective...**Discoveries**..."^{xiv} It is clear that "first-to-file (FTF) violates Article I Section 8, Clause Eight of the Constitution which protects the actual "inventors" for their actual "discoveries."

How many foreign countries, with which we're supposed to 'harmonize,' actually have such a provision, let alone have a constitution? I'll bet if you asked Senators Leahy, Sessions, Hatch, Grassley, Schumer and Kyl they wouldn't have the slightest clue.

Don't you think that if the Founders, including George Washington, Thomas Jefferson, Daniel Carroll, James Madison, William Samuel Johnson, Rufus King, among others, who actually wrote the Constitution in 1787 and enacted and implemented "first-to-invent" in the first patent law in 1790,^{xv} had really intended to grant patents to the "first-to-file," they wouldn't have done that?^{xvi}

Could those highly intelligent men have really not known what they were doing? Is it possible they all entirely forgot what they had done just 3 years previously?

Do Senators Leahy, Sessions, Hatch, Grassley, Schumer, Kyl, and 81 other Senators think that might be even *remotely* possible? That is a slap in the face to true American heroes and patriots!

The patent office already has a 3 to 5 year backlog with 1.2 millions pending applications; and Canada's experience^{xvii} shows that "first-to-file" will certainly cause a flood of new applications and even greater delays.

And that's the good news! The real 'skunk at the party' is, what happens when, after the patent office expends enormous time and additional resources, all these "first-to-file" (FTF) applications and any issued patents are deemed invalid because held to be unconstitutional. What about all the inventors who had actually been 'first-to-invent' will they then be given a chance to file their patent applications years later after science and technology have already moved on? What if they decided to abandon their efforts because someone else had been "first-to-file" and received an unconstitutional patent? Does anyone have a good answer?

All I can see is a 'colossal train wreck' that's going to screw up our patent system and American enterprise even more.

Why would Senators Leahy, Sessions, Schumer and Kyl try to pass legislation which is unconstitutional on its face? It's because they're actually willing to ignore the Constitution to keep their puppet masters with the big multinationals and on Wall Street happy (remember Pat Leahy has a big IBM office in his state). To use their own words, it will 'harmonize' our patent system with other countries' patent laws, i.e. make it easier for the multinationals to ship America's jobs overseas.

This is just another example of our government being willing to sell out America for big 'special interests.'^{xviii}

Fight back! Write your Senators and Representative immediately, and insist on a response explaining their position on Patent Reform. Most of the Senators' e-mail addresses are: "Senator LAST NAME" senator@LASTNAME.senate.gov; and most of the House members are: "Representative LAST NAME" FIRSTNAME.LASTNAME@mail.house.gov

ⁱ Despite enormous efforts expended by the biggest IT firms and Wall Street only one bill in seven attempts has gotten through the House over the past 5 years. The previous Congressional attempts to reform the Patent Act and the fate of each bill are:

111th Congress: S. 515 (Patent Reform Act of 2009: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=s111-515>
111th Congress: S. 610 (Patent Reform Act of 2009: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=s111-610&tab=summary>
111th Congress: H.R. 1260 (Patent Reform Act of 2009: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=h111-1260>
110th Congress: S. 1145 (Patent Reform Act of 2007: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=s110-1145>
110th Congress: S. 3600 (Patent Reform Act of 2008: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=s110-3600>
110th Congress: H.R. 1908 (Patent Reform Act of 2007: Passed House);
<http://www.govtrack.us/congress/bill.xpd?bill=h110-1908>
109th Congress: S. 3818 (Patent Reform Act of 2006: Dead);
<http://www.govtrack.us/congress/bill.xpd?bill=s109-3818>

ⁱⁱ Letter from America's Small Businesses, Start-up Entrepreneurs, Independent Inventors, and Technical Professionals to Senate Majority Leader, Harry Reid, February 23, 2011; <http://www.patentbaristas.com/wp/wp-content/uploads/2011/02/Small-Biz-Inventors-Empl.pdf>; IEEE-USA Letter to Patrick Leahy, 15 February 2011; <http://www.ieeeusa.org/policy/policy/2011/021511a.pdf>; National Small Business Association (NSBA) Letter to Senator Harry Reid, February 15, 2011; http://www.nsba.biz/docs/patent_reform.pdf; Letter to Patrick Leahy and Charles Grassley, 15 February 2011 from Retired Chief CAFC Judge, Paul Michele and President of IFP&TE AFL-CIO; <http://www.ifpte.org/downloads/news/manager/41c.pdf>; Patent Reform Act of 2011: Approved by Senate Committee, by Dale B. Halling, State of Innovation, Patents and Innovation Economics; <http://hallingblog.com/2011/02/08/patent-deform-act-of-2011-approved-by-senate-committee/>;

Letters of February 28, 2011 to Senators Feinstein and Boxer, "How S.23 Severely Disrupts America's Unique Process of Invention," from Steve Perlman; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Boxer.pdf>;
<http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Feinstein.pdf>;

Statement of JUDGE PAUL R. MICHEL (Ret.), Before the Subcommittee on Intellectual Property, Competition and the Internet, February 11, 2011;
<http://www.tplgroup.net:8080/pdf/Statement%20of%20Judge%20Paul%20R%20%20Michel%20Ret%20020911.pdf>;

ⁱⁱⁱ Patent Reform; Hearings on Patent Reform (109th, 110th, 111th Congresses) Witness Lists; IPOA; <http://www.ipo.org/AM/Template.cfm?Section=Home&template=/CM/ContentDisplay.cfm&ContentID=21553>; For sample of very mixed support and opposition to Patent Reform by Senate Judiciary Committee witnesses, see: Patent Reform Act of 2009 (S. 515) Senate Judiciary Committee Witness Testimony, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP; <http://www.finnegan.com/2009PatentLawReform/>;

"The patent bill on which the full Senate will soon vote had a grand total of two hours of hearings in the 110th Congress and another two hours in the 111th Congress. Opponents of the legislation were neither invited nor allowed to testify. Neither were inventors or representatives of inventors, independent research institutes, university technology officials nor small entity businesses. In the opening days of the 112th Congress, even these token hearings were not held. The mark-up of the patent bill in the Senate consumed 58 minutes, and included

time devoted to a review of a list of candidates for federal judgeships." E-mail Feb 24, 2011, Dan Leckrone , TPL Group, San Jose, CA; www.tplgroup.net;

House Subcommittee on Intellectual Property, Competition and the Internet; Hearing on: "Crossing the Finish Line on Patent Reform – What Can and Should be Done;" Friday 2/11/2011; Witness List: David Simon, Chief Patent Counsel, Intel; Carl Horton, Chief Intellectual Property Counsel, General Electric; The Honorable Paul Michel, Former Chief Judge, U.S. Court of Appeals for Federal Circuit; http://fnsq.net/transcript_fin.htm?id=20110211t2385&nquery=&query=&from=; Note also that all three witnesses are affiliated with IPOA which is run by the large multinationals; http://www.ipo.org/AM/Template.cfm?Section=Corporate_and_Law_Members&Template=/CustomSource/Members/hipListing/index.cfm&Type=CORP

Note: Although there has testimony by major universities, they do not necessarily represent the interests of independent inventors, sense universities typically have large budgets and staffs, and are often closely associated with and receive funding from major corporations for research, etc. Also, it is felt that patent legal practitioners, i.e. lawyers, do not necessarily represent independent inventors, sense they earn their livings from a costly patent application and enforcement process.

^{iv} IEEE-USA Letter to Patrick Leahy, 15 February 2011; <http://www.ieeeusa.org/policy/policy/2011/021511a.pdf>; citing The Importance of Startups in Job Creation and Job Destruction, by Tim Kane; http://www.kauffman.org/uploadedFiles/firm_formation_importance_of_startups.pdf;

Who Creates Jobs? Small vs. Large vs. Young, by John C. Haltiwanger, Ron S. Jarmin & Javier Miranda, NBER Working Paper No. 16300, Issued in August 2010; (<http://www.nber.org/papers/w16300>;

Small Businesses Responsible for Nearly All New Jobs" Inc.com, by Liz Webber August 16, 2007, <http://www.inc.com/news/articles/200708/data.html?partner=rss-alert>;

U.S. Small Business Administration, Office of Advocacy; http://www.sba.gov/sites/default/files/files/dyn_us_tot.pdf;

Impact on Small Venture-backed Companies, John Neis, CFA, Managing Director, Venture Investors; House Small Business Committee Hearing, March 29, 2007; <http://www.nvca.org/pdf/House-SB-Patent-Testimony.pdf>;

^v Letter from America's Small Businesses, Start-up Entrepreneurs, Independent Inventors, and Technical Professionals to Senate Majority Leader, Harry Reid, February 23, 2011; <http://www.patentbaristas.com/wp/wp-content/uploads/2011/02/Small-Biz-Inventors-Empl.pdf>;

IEEE-USA Letter to Patrick Leahy, 15 February 2011; <http://www.ieeeusa.org/policy/policy/2011/021511a.pdf>;

National Small Business Association (NSBA) Letter to Senator Harry Reid, February 15, 2011; http://www.nsba.biz/docs/patent_reform.pdf;

Letter to Patrick Leahy and Charles Grassley, 15 February 2011 from Retired Chief CAFC Judge, Paul Michele and President of IFP&TE AFL-CIO; <http://www.ifpte.org/downloads/news/manager/41c.pdf>;

Patent Deform Act of 2011: Approved by Senate Committee, by Dale B. Halling, State of Innovation, Patents and Innovation Economics; <http://hallingblog.com/2011/02/08/patent-deform-act-of-2011-approved-by-senate-committee/>;

"The Patent Act Is A Cheat On Americans," by Phyllis Schlafly, Eagle Forum; <http://www.eagleforum.org/column/2007/oct07/07-10-31.html>;

Patent Reform: The Senate Makes Its Move, by Manus Cooney and Marla Grossman, American Continental Group, March 7, 2011; <http://ipwatchdog.com/2011/03/07/patent-reform-the-senate-makes-its-move/id=15688/>;

"The Rush to a First-to-File Patent System in the United States: Is a Globally Standardized Patent Reward System Really Beneficial to Patent Quality and Administrative Efficiency?" 7 Minn. J. L. Sci. & Tech. 757-775 (2006), by Brad Pedersen; <https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=7+Minn.+J.L.+Sci.+%26+Tech.+757&srctype=smi&srcid=3B15&key=2b867160a53444a997b8704c51378664>;

"The debate over patent reform dates back to a 2004 National Academy of Science report that made several recommendations for modernizing the patent system and the PTO. Traditionally, changes to the patent code were relatively modest and were driven by established and esteemed patent-focused associations like IPO and AIPLA. But, in 2005, a powerful subsection of larger companies from the information technology industry ("IT") saw an opportunity to advance their interests and convinced Congress to include measures in patent reform legislation that would have rewritten the laws around how patents are enforced." Patent Reform: The Senate Makes Its Move, by Manus Cooney and Marla Grossman, American Continental Group, March 7, 2011; <http://ipwatchdog.com/2011/03/07/patent-reform-the-senate-makes-its-move/id=15688/>;

These large multinationals and banking interests have set up 'front organizations' with very nice-sounding names to try to disguise who is in fact pushing for this legislation and the real reasons behind it. They include: Intellectual Property Owners Association; http://www.ipo.org/AM/Template.cfm?Section=Corporate_and_Law_Members&Template=/CustomSource/MembershipListing/index.cfm&Type=CORP;

Coalition for Patent Fairness Membership; <http://www.patentfairness.org/learn/who/supporters/>;

Coalition for 21st Century Patent Reform; <http://www.patentsmatter.com/about/coalition.php>;

^{vi} IBM Lays Off 1000's in US While Offshoring 1000's of Jobs, MARCH 2, 2010; http://open.salon.com/blog/mick_arran/2010/03/02/ibm_lays_off_1000s_in_us_while_offshoring_1000s_of_jobs;

Intel, HP chiefs praise offshore outsourcing, 22 Oct 2003, by Yvonne Guzman, News Editor, SearchCIO.com; <http://searchcio.techtarget.com/news/933144/Intel-HP-chiefs-praise-offshore-outsourcing>;

Why the next phase of offshoring may interest you, By Howard Baldwin, Microsoft Corp.; <http://www.microsoft.com/midsizebusiness/business-goals/business-operations/offshore-outsourcing-benefits.mspx>;

Microsoft to outsource legal work to CPA Global, February 18th, 2010; <http://coreadvisor.com/globalwise/2010/02/18/microsoft-to-outsource-legal-work-to-cpa-global/>;

Ballmer Says Tax Would Move Microsoft Jobs Offshore (Update3), By Ryan J. Donmoyer, June 3, 2009, Bloomberg News; <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aAKluP7yIwJY>;

Union says Microsoft work going offshore, Thursday, July 29, 2004, By TODD BISHOP, SEATTLE POST-INTELLIGENCER REPORTER; http://www.seattlepi.com/business/184032_msftindia29.html;

Welch: GE Ex-CEO Blasts Outsourcing Opponents, 05-11-04, by Greg Levine, Forbes.com; <http://www.forbes.com/2004/05/11/0511autofacescan01.html>;

Offshoring: Spreading The Gospel, Outsourcing's inner circle has deep roots in GE and McKinsey. Here's how they caught the fever, MARCH 6, 2006; http://www.businessweek.com/magazine/content/06_10/b3974074.htm;

"I don't have to hire one more person in the U.S.," says [Micron CEO] Appleton. "I don't have to invest one more dollar here--and we'll be just fine." What Spending Slowdown? Forget those antiquated government statistics. U.S. corporate investment is booming — just take a look overseas, By Michael Mandel, APRIL 23, 2007, Business Week; http://www.businessweek.com/magazine/content/07_17/b4031048.htm;

"Exporting America." U.S. companies either sending American jobs overseas, or choosing to employ cheap overseas labor, instead of American workers, Lou Dobbs, [www.CNN.com](http://www.cnn.com); <http://www.cnn.com/CNN/Programs/lou.dobbs.tonight/popups/exporting.america/content.html>;

In the Jaws of the Dragon: America's Fate in the Coming Era of Chinese Hegemony, by Eamonn Fingleton, New York: Thomas Dunne Books, 2008; <http://www.unsustainable.org/index.asp?navID=5>;

^{vii} S.23 "America Invents Act of 2011;" <http://www.ipo.org/AM/Template.cfm?Section=Home&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=28748>;

^{viii} "...expensive and lengthy interference proceedings that are often ineffective. Some have estimated that the average cost of an interference proceeding is \$600,000, which can present a substantial barrier to smaller players..;" H.R. 1908 — Patent Reform Act of 2007 (Rep. Berman, D-CA) PRELIMINARY ASSESSMENT, Republican Study Committee 9/4/07; http://rsc.jordan.house.gov/UploadedFiles/lb_090707_patentreform.pdf;

For a discussion of the problems of 'post-grant review' and 'reexaminations see; THE FAILURE OF S.515 DRAFT BILL TO ADDRESS THE PGR PROBLEM, 2 March 2010, by Daniel E. Leckrone, The TPL Group; http://www.tplgroup.net:8080/pdf/The_Failure_of_S515_Draft_Bill_Memo.pdf; Lighting Up America's "Innovation Assassin" Problem, March 28, 2010, By Dan Leckrone; Tech News Arizona; <http://technewsarizona.com/Article.aspx?d=20100328&t=1835>;

The Use and Abuse of Patent Reexamination Sham Petitioning Before the USPTO, by Raymond A. Mercado, April 26, 2010, Columbia Science and Technology Law Review, Vol. 12, pp. 93-159, 2011; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1554061;

Statement of JUDGE PAUL R. MICHEL (Ret.), Before the Subcommittee on Intellectual Property, Competition and the Internet, February 11, 2011; http://www.tplgroup.net:8080/pdf/Statement%20of%20Judge%20Paul%20R%20%20Michel%20_Ret%20_02091_1.pdf;

June 5, 2007 letter from F. James Sensenbrenner to The Honorable John Conyers, Chairman, House Committee on the Judiciary; http://www.aai-usa.org/patent_reform/letters_to_congress/james_sensenbrenner_06_05_2007.html;

^{ix} "In the next decade...expect to see at least another two-fold increase in patent litigation...as a result of the greater ease with which an accused infringer can now file suit for declaratory judgment,...MedImmune Inc. v. Genentech Inc., 127 S. Ct. 764 (2007) ...an accused infringer may be more willing to sue for declaratory judgment of invalidity in light of the Supreme Court's KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727 (2007), which may make it easier to prove obviousness, and in light of eBay (eBay Inc v. MercExchange, 126 S. Ct. 1837), which makes it much more difficult...to obtain an injunction." Expect Twofold Increase in Patent Litigation, By Todd R. Miller, EE Times, 09/24/2007; <http://www.my-esm.com/showArticle.jhtml?articleID=202100936>; In addition there is In re Seagate, 497 F. 3d 1360 (Fed. Cir. 2007) which will make 'willful' infringement more difficult to prove.

^x 'First to file' is threat to job creation, 02/25/11, by Henry R. Nothhaft, The Hill; <http://thehill.com/blogs/congress-blog/economy-a-budget/146149-first-to-file-is-threat-to-job-creation>; Letters of February 28, 2011 to Senators Feinstein and Boxer, "How S.23 Severely Disrupts America's Unique Process of Invention," from Steve Perlman; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Boxer.pdf>; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Feinstein.pdf>;

^{xi} Statement of JUDGE PAUL R. MICHEL (Ret.), Before the Subcommittee on Intellectual Property, Competition and the Internet, February 11, 2011; http://www.tplgroup.net:8080/pdf/Statement%20of%20Judge%20Paul%20R%20%20Michel%20_Ret%20_02091_1.pdf;

Letters of February 28, 2011 to Senators Feinstein and Boxer, "How S.23 Severely Disrupts America's Unique Process of Invention," from Steve Perlman; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Boxer.pdf>; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Feinstein.pdf>;

H.R. 1908 — Patent Reform Act of 2007 (Rep. Berman, D-CA) PRELIMINARY ASSESSMENT, Republican Study Committee 9/4/07; <http://rsc.jordan.house.gov/Search/Results.htm?cx=015261568882729536952%3Amhtkfb-gqeq&cof=FORID%3A9&ie=UTF-8&q=patent+reform&x=23&y=4#1061>;

Letter to Patrick Leahy and Charles Grassley, 15 February 2011 from Retired Chief CAFC Judge, Paul Michele and President of IFP&TE AFL-CIO; <http://www.ifpte.org/downloads/news/manager/41c.pdf>;

^{xii} Congress should look at the "adverse" effects on small businesses and "generally negative effects on patent quality" as a consequence of Canada's adoption of a first-to-file system in 1989. "Does It Matter Who Has the Right to Patent: First-to-Invent or First-to-File? Lessons from Canada," NBER Working Papers, No. W14926, by Lo and Sutthiphisal. McGill University, April 2009; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1394833;

"Patent Reform's Weakened Grace Period: Its Effects On Startups, Small Companies, University Spin-Offs And Medical Innovators," by Boundy & Marquardt, Medical Innovation and Business Journal, vol. 2 no. 2 (Summer 2010); http://journals.lww.com/medinnovbusiness/Fulltext/2010/06010/Patent_Reform_s_Weakened_Grace_Period_Its_Effects.6.aspx;

'First to file' is threat to job creation, 02/25/11, by Henry R. Nothhaft, The Hill; <http://thehill.com/blogs/congress-blog/economy-a-budget/146149-first-to-file-is-threat-to-job-creation>;

^{xiii} The Patent Reform Act's Proposed First-to-File Standard: Needed Reform or Constitutional Blunder, Simon, Karen E., 6 J. Marshall Rev. Intell. Prop. L. [i] (2006-2007); <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/johnmars6&div=13&id=&page=>

;

"...First-to-File has been a popular subject of analysis over the decades by constitutional scholars and the overwhelming consensus is that it is **unconstitutional**, and among scholars in the last decade, this is almost a universal view..."; Letters of February 28, 2011 to Senators Feinstein and Boxer, "How S.23 Severely Disrupts America's Unique Process of Invention," from Steve Perlman; <http://www.tplgroup.net:8080/pdf/110228%20-Z20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Boxer.pdf>; <http://www.tplgroup.net:8080/pdf/110228%20-%20Steve%20Perlman%20S.23%20Letter%20to%20Senator%20Feinstein.pdf>;

"The first-to-file provisions of the Patent Reform Act of 2005 are violative of Article I, § 8, cl. 8 of the United States Constitution." "The First-to-File Provisions of the Patent Reform Act of 2005 Violate the Constitution's Intellectual Property Clause," by Dave Simon, November 2005; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=841404;

"First-to-File vs. First-to-Invent: Who Really Benefits from Changing the U.S. Patent System?" Wealth of Ideas Newsletter, October 2007; <http://www.generalpatent.com/first-file-vs-first-invent-who-really-benefits-changing-u-s-patent-system>;

^{xiv} U.S. Constitution, Article I, Section 8, Clause 8 states that "Congress shall have power 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"; <http://topics.law.cornell.edu/constitution/articlei#section8>; History of the United States Constitution, Wikipedia; http://en.wikipedia.org/wiki/History_of_the_United_States_Constitution;

^{xv} 1st United States Congress, Wikipedia; http://en.wikipedia.org/wiki/1st_United_States_Congress#Members; List of signers of the United States Constitution; http://en.wikipedia.org/wiki/List_of_signers_of_the_United_States_Constitution;

^{xvi} A Brief History of the Patent Law of the United States, Ladas & Perry, LLP; <http://www.ladas.com/Patents/USPatentHistory.html>;

^{xvii} Congress should look at the "adverse" effects on small businesses and "generally negative effects on patent quality" as a consequence of Canada's adoption of a first-to-file system in 1989. "Does It Matter Who Has the Right to Patent: First-to-Invent or First-to-File? Lessons from Canada," NBER Working Papers, No. W14926, by Lo and Sutthiphisal. McGill University, April 2009; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1394833;

"Patent Reform's Weakened Grace Period: Its Effects On Startups, Small Companies, University Spin-Offs And Medical Innovators," by Boundy & Marquardt, Medical Innovation and Business Journal, vol. 2 no. 2 (Summer 2010); http://journals.lww.com/medinnovbusiness/Fulltext/2010/06010/Patent_Reform_s_Weakened_Grace_Period_Its_Effects.6.aspx;

'First to file' is threat to job creation, 02/25/11, by Henry R. Nothhaft, The Hill; <http://thehill.com/blogs/congress-blog/economy-a-budget/146149-first-to-file-is-threat-to-job-creation>;

^{xviii} Time and again, Congress has worked hand-in-glove with big multinational corporations and Wall Street in destroying our hard-working 'middle-class.' Have we learned nothing in the past 30 years: with NAFTA sucking jobs out of America and having our pockets picked by the WTO; Jobs, Wages and Economic Outcomes Under the NAFTA-WTO Model, PublicCitizen.org; <http://www.citizen.org/Page.aspx?pid=2124>; NAFTA's Effect on United States Employment; http://en.wikipedia.org/wiki/NAFTA%27s_effect_on_United_States_employment; NAFTA's Decade of Job Losses; <http://legacy.usw.org/usw/program/content/839.php>; with the deregulation and collapse of the savings and loan industry in the 80s; "Savings and Loan Crisis," Wikipedia; http://en.wikipedia.org/wiki/Savings_and_loan_crisis; "The Keating Five," Wikipedia; http://en.wikipedia.org/wiki/Keating_Five; passage of 'inter-state banking' in the 90s which has allowed a mere handful of 'mega-banks' to drain \$ trillions deposits from local communities' economies; The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; <http://www.csbs.org/bankinglaw101/Wiki%20Pages/Riegle-Neal%20Interstate%20Banking%20and%20Branching%20Efficiency%20Act%20of%201994.aspx>; deregulation that led to the collapse of ENRON; Blind Faith: How Deregulation and Enron's Influence Over Government Looted Billions from Americans, December 2001, Public Citizen; http://www.citizen.org/documents/Blind_Faith.PDF; and finally, the total meltdown of the world economy because of our government's complicity "Alan Greenspan, Brooksley Born, and The Warning." FRONTLINE; <http://video.pbs.org/video/1302794657>; THE FINANCIAL CRISIS INQUIRY REPORT, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States, January 2011, U.S. Government Printing Office; http://c0182732.cdn1.cloudfiles.rackspacecloud.com/fcic_final_report_full.pdf; in the fraud of a handful of Wall Street firms. Our legislators have precipitated, and participated in, every single one of these financial disasters because they cater to an elite group of 'special interests.'
