

CREATE ACT -Final Rules - Effective Sept. 14, 2005

The Cooperative Research and Technology Enhancement Act of 2004 (CREATE Act) disqualifies as prior art subject matter developed by "another person" shall be treated as owned by the same person or subject to an obligation of assignment to the same person for purposes of determining obviousness if three conditions are met:

- (A) The claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;
- (B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and
- (C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

The CREATE Act is intended to promote joint research. A major feature is to allow some prior art (102 e, f, g) to be disqualified from obviousness (103) consideration if the invention arose from a joint research agreement.

For more information see

Federal register - CREATE ACT - Sept. 14, 2005

<http://www.uspto.gov/web/offices/com/sol/notices/70fr54259.pdf>

Good summary - <http://www.uspto.gov/web/offices/pac/dapp/create-alt-text.htm>

FAQ - <http://www.uspto.gov/web/offices/dcom/olia/aipa/103cfaq.htm>

[35 USC 102 and 103](#) - has 103(c2) and (c3) amendments

WARNING: The information which follows was correct at the time of original publication. Some information may no longer be applicable. For example, amendments may have been made to the rules of practice since the original date of a publication, there may have been a change in any fees indicated, and certain references to publications may no longer be valid. Wherever there is a reference to a statute or rule, please check carefully whether the statute or rule in force at the date of publication of the advice has since been amended.

Revised Date: 2005-10-12