Dear USPTO:

I am writing to encourage the patent office to discontinue to practice of granting patents for software. As a former engineer, founder and executive for several start-up technology companies, and investor in many new and existing technology companies, it is my opinion and experience that software patents not only do not provide incentives for innovation, but rather they create obstacles for delivering new technology to society.

The patent system, as you know, was designed to reward inventors for making an investment in time and money, and for their creative abilities, to create new inventions. However, software programs themselves are not inventions. The computer (and this includes microprocessors that are computers embedded into all kinds of everyday
devices) is the invention, and software is just the instructions for using that computer. The computer is supposed to be used for many different functions, and software enables those functions. It is one thing to allow copyrighting the source code, but the functions the code enables are not inventions, but applications. A screw is an invention, because it was designed to be a universal machine for fastening objects together, but every application of the screw itself is not an invention.

Also, what is often considered an invention is really just a design choice. There are often a seemingly unlimited number of ways to implement a specific function on an electronic device, and what is chosen for the first time is not necessarily an innovative invention, but the simplest and most obvious option. This is very typical in both application software and embedded products. Patents are not supposed to be awarded for designs that are obvious.

As an executive and engineer, I was often encouraged to file for patents (almost always for software) - not so much because we wanted to protect our intellectual property, but rather to have an economic weapon to protect us against patent attacks from other companies. The patents did not reward us for our creativity, hard work, and investment, but rather just made the entire development process less efficient, delayed the introduction of new products, and reduced the amount of features and functionality we could offer. I also don't know of any company that has decided not to create a product because they won't have patent protection for the software.

I urge you to use this opportunity to establish a new policy for software patents - one that will foster innovation and growth in an industry that the nation can continue to be a leader in.

Sincerely,

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