I am a software entrepreneur who has founded several software start-ups
and in fact I am involved in a highly innovative start-up now. I have
also helped many other people with their software start-ups, as a
volunteer for a local technology incubator. And yet I am opposed to
software patents.

A huge problem facing any software companies, and especially start-ups,
is that there are vast numbers of software patents out there. It is
virtually impossible to develop any software without violating at least
a handful of these patents. And even if you could, reading all the
available patents in order to make sure that you don't violate any of
them would kill any software company (not just start-ups). Even worse,
many of these patents are about trivial, obvious, and widely used ideas
in software. They would not hold up to challenge, and yet no start-up
would have the time or the money required to challenge these patents.

This leads to a crazy situation where software companies are forced to
patent anything they think of, not to protect their ideas, but as a
defensive measure in case they get sued by some other company. So the
problem is self perpetuating.

I, like many software entrepreneurs and engineers, was happy about the
Bilski decision, and sincerely hope that it can help limit software
patents to only the most innovative and non-obvious ideas.

Unfortunately, I cannot imagine a software system that is capable of
recognizing which software ideas are truly innovative and non-obvious.
I also believe that software is a mathematical formula (I am the author
of a book on programming languages), and as such should not be
patentable. In fact, programmers work very similarly to mathematicians,
coming up with new programs the same way that mathematicians come up
with new formulas. It is no coincidence that some of the best and most
advanced work in software is being done under the umbrella of "free" or
"open" software, the same way it is usually done in mathematics.

I have never seen a valid software company that was helped by software
patents, and I have seen companies that have been harmed by patents
that never should have been issued in the first place.

I encourage the patent office to take the broadest interpretation of
Bilski that is possible, and restrict the issuance of software patents
as much as possible. Such a position will be in the best interest of
the software industry, and the advancement of science and technology in
this country.

William Leler, PhD