

From: Eric Stein [e-mail redacted]
Sent: Monday, September 27, 2010 10:52 PM
To: Bilski_Guidance; [e-mail redacted]
Subject: Software Patents are a negative influence on my field of work.

Dear Sir/Madam,

I heard today that the USPTO is requesting feedback on the continued issuance of patents that apply to software systems. Although I have much else to do, I am spending as much time as I can on writing to you due to how strongly I feel about this particular legal issue.

My issues with the problem are twofold: that abstract ideas were originally not meant to be patentable, and the extremely poor quality of the patent examination heretofore in relation to software. I will discuss abstraction first.

Computer programs are fundamentally mathematical descriptions of transformations of information. Mathematical proofs and formulas are not patentable. Computer programs are the direct application of mathematics to concepts that bear more closely on human life and the accouterments of human life than most mathematical formulas, which are performed by computers rather than humans. However, the work done by a computer is by no means not possible for a human to perform, given enough time.

While people speak of inventing new algorithms, and new applications, this is not strictly speaking a proper use of these words. Building or discovering make more sense.

The second issue - patent examination - is perhaps worse, but that does not detract from how serious it is that patents are being issued for something which is composed strictly of information and abstract concepts.

First, many "inventions" that lack any inventive step or innovation of any kind, and which any slightly skilled person in the field of computer science would immediately realize have vast amounts of prior art are

regularly approved by the USPTO. I have read many stories of such occurrences, but I'll just cite a few. I'm sure more information on this can be found by some google searches:

<http://www.google.com/patents/about?id=Szh4AAAAEBAJ>
<http://www.google.com/patents?vid=USPAT5552982>
<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fnetahm%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=7,568,213.PN.&OS=PN/7,568,213&RS=PN/7,568,213>

Here are a few articles you may find better than my writing, but share my views:

http://thepriorart.typepad.com/the_prior_art/2010/08/eben-moglen-on-bilski-software-patents-and-big-pharma.html
<http://progfree.org/Patents/against-software-patents.html>

This page may be helpful to patent examiners:

<http://spi.org/search-spi.jsp>

I'm sure that the term patent troll is not foreign to your ears. These are companies that without having created much (if anything) of real value themselves, patent something and then sue the persons who created the prior art that should have disqualified the patent from being granted in the first place. Often the persons sued have too little money or time to fight back and settle out of court. Even when they do fight back, great expense is often incurred to avoid business being halted by the legal assault.

This all occurs without any proof that software patents have actually led to improvements the state of the art in the software industry. I strongly suggest that software patents be either halted altogether or at the very least much more carefully examined before being granted.

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