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To: SoftwareRoundtable2013

Subject: Written Comment

Over the years I have attended many workshops and panels on the subject of software patents. The attendees could usually be divided into two groups: those who were opposed to software patents vs those who think they are beneficial to programmers. We call people in the first group*programmers*. They are not aware of how much patents are helping them. We call people in the second group*lawyers*. They tend to confuse the programmers' benefits with their own benefits.

Today I attended the USPTO's Software Partnership Roundtable at Stanford University, and for the first time I heard from a third group: Lawyers who are aware that the patent system is doing real harm to programmers.

There were people from the government using the term*troll*. This is new. For the first time, it wasn't us telling them how the system was hurting us. It was them telling us that they know it is hurting us, and also saying that they want to fix it. (Side note: Lawyers from Microsoft and IBM testified that the system is working pretty well for them, so the leadership of those companies are still in that second group.)

PTO is considering administrative fixes which are intended to reduce the quantity of vague and overbroad patents that they issue. There was a lot of optimism from the third group that this was achievable.

I am not optimistic. I think the best approach is to exclude the patentability of all computation, in the same way that the PTO excludes mathematics. You have always been able to incorporate mathematics into inventions, but the math itself is not protected. If we could do the same with computation, which was once considered to be mathematics, then I think we would be a lot better off.