

**From:** William Payne  
**Sent:** Friday, January 04, 2013 4:53 PM  
**To:** SoftwareRoundtable2013  
**Subject:** Additional Topic for Future Discussion

Hi!

I am an individual developer. In the past I have worked either for small companies, or for small teams within larger organizations.

I am afraid of inadvertently violating other people's intellectual property. This is a real concern. Because of the broad claims made by many patents, as well as the large number of patents that have been filed, and continue to be filed, it seems to me that the chances of accidentally breaking the law are quite high (and increasing all the time).

The main problem that I have is that I am not aware of a practical, reasonable, and not-unjustifiably-onerous mechanism that I can use to check the work that I produce for violations, and yet still remain productive and competitive.

Today, for example, I wrote a couple of small scripts, each one or two hundred lines long. For all I know, each script violated a dozen or more patents -- and I have no way of knowing, because I have more work to do before I finish for the day. (If it only took 5-10 seconds to check, that would be a different matter...)

As a result, one is caught in a catch-22 situation: Either you spend most of your time checking your work for violations, and (as a certainty) get fired for lack of productivity, or you gamble that either (a) none of your work violates any IP, or that (b) nobody will notice any violations that do occur.

Since I know of nobody who takes the first route (and cannot imagine a reasonable situation where any sane person would chose that route either), it follows that all (or almost all) developers in the world are gambling with the law - working under a metaphorical sword of Damocles. (A recipe for injustice).

I cannot speak for the other developers out there, but I was raised to be punctilious in my observance of the law, or, at very least, to *\*want\** to be punctilious in my observance of the law. I certainly do not want to take any chances with that *\*\*\*%\$^* sword hanging over my head.

So, it seems to me that either everybody must be forced to exhaustively check all of their work for violations, all of the time, so that the playing-field is leveled, and that one can both safely avoid brushes with the law and remain competitive at the same time, or the sword must be removed.

So, we have three choices here:

Firstly, could we remove the sword entirely? Revoke all existing software patents and prevent any more from being issued? Intellectual property would still be adequately protected by copyright and trade secret.

Secondly, could we create a mechanism to automatically and rapidly check (in a language independent manner) - IP violations -- perhaps via some sort of web service?

If neither of the above options is feasible, then perhaps we should force all developers to check all of their code all of the time - perhaps by regulating the use of compilers and interpreters to those who are suitably qualified & licensed, with periodic audits made to ensure that licensed developers adhere to strict IP-checking practices, with licenses (required to use a compiler or an interpreter) revoked if the developer fails the audit. If this second option is favored by the regulator -- are we willing to live with the consequential (epic) destruction of productivity and innovation that would result.