

From: Jackman [e-mail redacted]
Sent: Sunday, September 26, 2010 3:47 AM
To: Bilski_Guidance
Subject: Software Patents

My name is Andrew Jackman and I am a software developer from Oregon.

I would like to express my desire to prevent software patents.

First, I will make it clear that I agree with the statement released by the Free Software Foundation:

"Software patents hurt individuals by taking away our ability to control the devices that now exert such strong influence on our personal freedoms, including how we interact with each other. Now that computers are near-ubiquitous, it's easier than ever for an individual to create or modify software to perform the specific tasks they want done -- and more important than ever that they be able to do so. But a single software patent can put up an insurmountable, and unjustifiable, legal hurdle for many would-be developers."

"The Supreme Court of the United States has never ruled in favor of the patentability of software. Their decision in *Bilski v. Kappos* further demonstrates that they expect the boundaries of patent eligibility to be drawn more narrowly than they commonly were at the case's outset. The primary point of the decision is that the machine-or-transformation test should not be the sole test for drawing those boundaries. The USPTO can, and should, exclude software from patent eligibility on other legal grounds: because software consists only of mathematics, which is not patentable, and the combination of such software with a general-purpose computer is obvious."

The statement is most comprehensive, but I would like to point out one more thing. There is no way you can enforce software patents. It just isn't possible. Everyone in the United States, Canada, Mexico, and the developed world has access to a computer. Maybe they don't own it, but they can get to it. Even people in third-world countries have access to computers. Nearly all computers have access to the internet. If a computer is on the internet, it has access to programming tools (gcc, for example: <http://gcc.gnu.org/>). If

everyone in the USA alone can program anything at anytime, there's no way to prevent them from violating software patents without invading their privacy. Even if you did, how many of them are you going to prosecute? How many of them are even going to be aware that they're violating patents? What's more is that some software is just necessary and is coded into hundreds of different programs and systems.

Some patents are just ridiculous already. For example, check out "Online Shopping and Item Selection System and Method". This is a patent for the basic internet shopping experience. If this were ever enforced, no one would ever be able to make any money at all on the internet. No more enterprising on the internet. Period.

In short, I'm writing this email because it's so obvious that software patents are a bad idea. If you have any doubt, go visit your local Linux user group. They may be geeks, and they may not express themselves very well, but they're a part of the community that supports the same operating systems and software that drives nearly all internet traffic: Linux and Apache.

Watch and see who patents the web server first.

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