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Sent: Friday, September 24, 2010 1:23 PM
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Subject: Please stop software patents

To whom it may concern:

Patents were supposed to protect the innovator and encourage businesses to make R&D investments. This works in slower moving industries, where the motivation to innovate may be much lower. But software moves so fast that by the time a patent is even granted, the supposed innovation is long outdated.

Most software patents, like the "Eolas" patent (5,838,906), are not groundbreaking. Like similar functionality existed before the Eolas patent, most software patents are obvious to any programmer. By the time the Eolas patent was granted, it was seen as silly. When it was used against Microsoft, it appeared laughable. When it won, it was ominous.

Instead of encouraging innovation, software patents have become weapons. It takes no great skill to get a software patent and no big investment. One doesn't even have to build anything, some drawings and vague claims are enough to file. But in software, where progress is insanely fast, it only works to eliminate newcomers and slow innovation.

Microsoft, though they independently developed their own methods, may have to pay a large settlement to use their own code. They built. They innovated with their browser. Yet, somebody else simply filed some paperwork and then tried to claim a big payday. The patent lawsuit is merely troublesome for Microsoft, but for a startup such a thing would be devastating.

Every startup knows that any program is likely infringing on several unknown patents. It has become a tax on innovation. Startups and programmers try to fly under the radar long enough to make enough money to defend themselves or to sell themselves to larger companies for protection. In a sane world, this would be racketeering.

Please, the technology industry is not well-served by patents. But it is worth saving.

Mike Johnson