From: [e-mail redacted] On Behalf Of Mike Bourgeous
Sent: Monday, September 27, 2010 4:07 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: Reconsider software patents

In light of the recent Bilski decision by the Supreme Court, the USPTO is reexamining its approach to software patents. I urge the patent office to abolish software patents in their entirety.

I am a professional software developer. I own a software consultancy business, and I have created or contributed to several open source software projects. Software patents are a general hindrance to my field, for the following reasons:

- Software patents last far, far too long to serve the software field, which advances much more rapidly than any other industry.
- The cost of obtaining patents makes it difficult for small businesses and impossible for open source developers to obtain them.
- The cost of defending against an invalid patent threat is significantly greater than the cost of product development.
- The majority of granted software patents are too broad in scope, and fail the obviousness test, resulting in patents which cover techniques that have been common public knowledge for decades.
- Software patents (and patents in general) are used by non-practicing entities (otherwise known as trolls) to extort money from or destroy innovative businesses, thus reducing the time and money available for genuine innovation.
- Software is adequately protected by copyright and trade secrets.

The ideal course to promote the progress of the software industry would be to cease granting software patents immediately, as well as reducing or eliminating the threat of existing patents to innovative companies. If the Office makes the regrettable decision to continue to allow software patents, the following improvements should be considered:

- Reduce the term of software patents to a duration more appropriate for the software industry, namely a maximum of 6 months between filing and approval or rejection, and a term of two to five years.

- Cease granting patents on obvious or existing techniques.
- Have all software patents examined by computer science academics and professionals.
- Expand prior art searches to include software industry trade publications, existing open source and commercial software, and online publications.
- Encourage Congress to limit damages, and courts to expedite trials, in patent-related cases.

I appreciate any consideration given to my suggestions, and hope the Office will act in the best interest of software innovation by abolishing software patents.

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