From: Patrick Dickey [e-mail redacted]
Sent: Sunday, September 26, 2010 4:01 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: My opinion on Software Patents

Hello there,

I am not a developer (although I have taken some Programming Languages and do occasionally write some code), but rather an end-user of software and Operating Systems. It is my opinion as an end-user that Software Patents harm my ability to utilize the best possible solution to any problem that I may have. Here are the reasons why:

- If the original creator of the software does not feel a need to address my requirements, then I have no recourse. If another company tries to pick up the mantle and address my needs, they will be sued by the original creator for patent violations. Yet the original creator will not address those needs (after suing and removing the competing product from the markets).
- If the original creator creates buggy software, and does not fix the bugs, then I am forced to live with the bugs and the resulting loss of data/damages. This is partially due to the fact that NO ONE ELSE can fix the bugs (because of existing software patents) and because I have no recourse to recover my damages (due to the Computer Fraud and Abuse Act--which prohibits me from suing the software company for damages resulting from their bugs).
- The creators of the software and Operating Systems can force me to pay for unnecessary "upgrades" to their products by refusing to support the older products--and through software patents, not allowing anyone else to pick up the support and improvement of their older products. If you look at "open source" products, they tend to work on hardware that most of the "closed source" companies have long abandoned.
- Using Software Patents, the creators decide which direction the user should take. When you have open source (or "Copyleft" or "Patent-free") code, the user determines which direction the product should take. This is a better solution for all, because a product that will flow in the direction the users want to go, will get to the destination faster (in other words make money faster) than a product that tries to create a new direction.
- The patents are based on Math. Regardless of how you dress it up, it's still a mathematical algorithm, and that should not be patentable.
- Software and other Computer-related development is changing at such a rapid pace, that the patents should only be allowed for two to three years maximum. Look at ANY piece of software that was written 2 years ago, and now look at the current version (you can pick any two-year period for this test). They will not look anything like each other. Maybe in a general sense, they will, but for specific functions, they are a million miles apart from each other. YET, the company holds the patent far longer than the pace of software development should allow.

- As per my last reason, if you look at some products, they have stagnated. Even though the company has given up on development, no one else can continue because the company holds the patents to the product and methods.
- For example: Three years ago, one of my coworkers brought me his computer to repair. It needed to have a recovery performed, however he did not have the Recovery Discs anymore (nor could he get them from the manufacturer). The recovery image was in a proprietary format for a company that Symantec purchased (and stopped development of the Imaging product, because it competed with their Imaging products). My options were a) wipe the computer completely and start from scratch b) find a third-party product that did an inferior job of reading the image (and hope that it was good enough to properly do the job) or c) find an older copy of the imaging software. Luckily enough, I found a third party product that was able to read and recover the image (it was a basic image). Now, imagine what would have happened if 1) there was no third party product or 2) Symantec didn't hold any patents that prevented the third party product from doing as good (or better) job of working with the image as the original.

It is because of these factors that I believe Software Patents should be invalidated, or at the very least their term should be reduced to a period not to exceed two to three years maximum.

Thank you for considering my opinion.
Patrick Dickey