From: Max Hyre [e-mail redacted]
Sent: Monday, September 27, 2010 3:52 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: Software patents do not ``promote the progress of science and useful arts[.]''

Dear USPTO:

Please follow the U.S. Supreme Court's ruling in Bilski, which emphatically includes affirmations of Diehr, Benson, and Flook. Basically, this should be that software is not patentable. At all.

The U.S. Constitution empowers Congress ``To promote the progress of science and useful arts[.]'' The software realm needs no promotion---it is a continuous ferment of new ideas and new ways to use old ideas, and has been since its inception. Groundbreaking programs such as assemblers, compilers, data base engines, languages galore, &c., &c., &c., were all created and improved under copyright protection, free of the strictures of patent law. That creativity continues to this day, but now hampered by the inability to use ideas that someone else has received a patent on, no matter how unworthily.

Patent is needed to protect fields where extensive and expensive research and development is necessary: Bessemer furnaces, locomotives, plastics, and the like. If an inventor isn't assured a chance to recoup those costs, the invention won't appear. In software, cost is so close to zero as to make no difference. If one person decides not to introduce a software innovation, a dozen or a hundred others will.

The greatest promotion of software progress is to leave it alone.

Sincerely,

Max Hyre
[e-mail redacted]