From [e-mail redacted]On Behalf Of Patrik Jonsson
Sent: Friday, September 24, 2010 12:29 PM
To: Bilski_Guidance
Cc [e-mail redacted]
Subject: Re: Bilski Guidance

Dear USPTO,

As a software developer, I believe that software should not be patentable. Software are abstract ideas and mathematical formulae, which are not patentable. The fact that these formulae are being calculated on a digital computer in no way changes this fact, any more than evaluating them with pencil and paper would.

Furthermore, software patents are hindering innovation, not encouraging it. 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. However, individuals and small software businesses have no practical way to survey the body of software patents out there, the majority of which are obvious to a professional developer, and thus put themselves at risk of litigation. Patents thus become an unjustifiable legal hurdle to innovation.

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.

With best regards,

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