

From: Jason Novek [e-mail redacted]
Sent: Monday, September 27, 2010 4:38 PM
To: Bilski_Guidance; [e-mail redacted]
Subject: Software Patents

USPTO Representative,

I am writing at the recommendation of the Free Software Foundation to tell you what software patents mean to me as the founder of a small Silicon Valley software startup.

Our company raised seed capital about six months ago. We raised less than \$1 million which provides salaries for 10 people and covers our infrastructure costs. At this time, if we entered any sort of protracted legal dispute, it's extremely unlikely that we would be able to cover the legal fees. Furthermore, although we do have many innovations that are patentable, we do not have the cash resources to make filing our own patents a priority.

Meanwhile, corporations with large cash reserves such as Microsoft, Oracle and Google file literally thousands of software patents per year. Thankfully, most of these patents are used defensively, but occasionally they are used for anti-competitive purposes.

I am not a lawyer so I cannot comment on the letter of patent law, but the spirit of patents seems to be to allow innovators such as myself to compete. Unfortunately, software patents currently have the opposite effect -- they allow large incumbent companies to reduce competition while small players like us just have to hope that we don't lose the "patent lottery".

Amongst software engineers, it has long been agreed that the bar for whether a patent is obvious is far too low. I believe that the Bilski v. Kappos decision confirms this suspicion. Please use this review as an opportunity to create a new, tougher standard for software patents. Help make patents about protecting innovation again.

Thank you for your time.

Jason Novek