From: [e-mail redacted] **On Behalf Of** Adam Sah
Sent: Friday, September 24, 2010 1:57 AM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: holder of 9 issued software patents, against long periods for software patents

Dear USPTO,

My name is Adam Sah and I have been a software engineer, manager and entrepreneur for 20 years, with 5 recent years as a senior engineer at Google, where I'm credited with inventing Google Gadgets, the plugin system used in most of their products, IBM Lotus Notes, MySpace and more. Over the years, 9 of my software patents have been issued across 3 companies, and another 10+ are pending, many for Google, where I hope (pray) that they will be used only for defensive purposes.

I am writing to say that, in spite of my success, I am VEHEMENTLY OPPOSED to software patents, specifically due to their length of enforcement and the processes that lead to "submarine" patents, which together create a situation where once-novel software technology becomes pervasive and "trolls" in the secondary market hold practicing firms hostage to absurdly large royalties. Obviously, this dilutes the extremely hard work of people who focus on the debugging and shipping code, and excessively reward people who draw pictures of code. I'm lucky enough to do both, but the majority are gifted in one or the other.

Worse, those same large firms which pay these royalties also build their own patent portfolios, which then return inbound royalties to support the payment of outbound royalties. Put together, this is not a system that rewards independent inventors-- this is a system that hurts emerging practicing companies with revolutionary products.

To summarize the current situation, I will paraphrase a famous quote and say: shipping code is hard, let's go patenting.

I differ from extremists however, and believe we should shorten the duration of software, algorithm and logic patents (including chip technologies), which I believe solves the most egregious problems without violently disrupting a trillion dollar innovation economy.

Shortening durations works because it incrementally reduces a software patents' hyper-inflated value, starving this value-destroying eco-system of capital and incentives. Everyone from trolls to attorneys has incrementally less capital and therefore incrementally less incentive. Fewer patents would be sought, easing burden on examiners and reducing backlog. As a society, we win because more actual products ship, improving the quality and reducing the cost of everything from healthcare to commerce.

Finally, a reduction in duration becomes a non-extremist negotiating point: 0 years is one extreme and 17+ is another extreme. In contrast "banning" software patents is much harder, both practically and politically, and could have extreme unintended consequences, where an incremental reduction allows us to test the impact of such changes on a trillion-dollar economy, while we hopefully spend less time talking/writing/arguing/licensing technology, and spending more time shipping products containing technology.

As the truism goes: the only way to create value is to ship; and shipping is harder than it looks.

So that you understand my sincerity, I am writing to you while the ink dries on the signature page of another software patent application I am writing for Google, 9+ months after amicably leaving the company. With no trace of irony, I consider this letter the single most important contribution I could make to further Google's software patent portfolio, because I know that the team would rather focus on creating value for the world through its products than its patents. Likewise, for the many small startups I've worked at, they would rather do the same, and also spend their scarce capital on product development and not patent authoring.

sincerely,
Adam Sah
38 Lyon St, SF, CA 94117 / [e-mail redacted]
founder and CEO, Buyer's Best Friend, Inc. (1 patent pending)
former Manager and Technical Lead, Google (4 issued, 9 pending)
current board member, former founder/CTO, SenSage Inc. (1 issued)
former VP Engineering, Internet Pictures Corp. (4 issued patents)

issued patents:
7,730,109 Message catalogs for remote modules
7,730,082 Remote module incorporation into a container document
7,725,530 Proxy server collection of data for module incorporation into a container document
7,177,448 System and method for selecting and transmitting images of interest to a user
7,076,085 Method and apparatus for hosting a network camera including a heartbeat mechanism
7,024,488 Method and apparatus for hosting a network camera
7,024,414 Storage of row-column data
7,015,949 Method and apparatus for hosting a network camera with refresh degradation
6,492,985 Presenting manipulating and serving immersive images

published applications:

20100017289 Geographic and Keyword Context in Embedded Applications
20090099901 External Referencing By Portable Program Modules
20080301643 Map Gadgets
20080298342 Inter-Domain Communication
20080244681 Conversion of Portable Program Modules for Constrained Displays
20080098058 Online Ranking Protocol
20080097987 Online Ranking Metric
20080097986 Generic Online Ranking System and Method Suitable for Syndication
20070204010 Remote Module Syndication System and Method

cc: FSF (please respect my moderate perspective and appreciate that reducing the number of years is an important step towards zero. Please also accept my undying adoration for your uncompromising work towards openness.)

On Thu, Sep 23, 2010 at 3:11 PM, Brett Smith [e-mail redacted] wrote:
Following the Supreme Court's decision in *Bilski v. Kappos*, the United States Patent and Trademark Office (USPTO) plans to release new guidance as to which patent applications will be accepted, and which will not. As part of this process, they are seeking input from the public about how that guidance should be structured.

Normally when the USPTO solicits feedback like this, they hear almost exclusively from patent attorneys who have a vested interest in making sure that patents are granted as broadly as possible. And this process will be overseen by David Kappos, the current director of the USPTO and formerly an attorney at IBM in charge of their heavy-handed patent strategy. The company obtained large numbers of software patents with his oversight (and has continued to do so after his departure).

It's not hard to guess what this guidance will look like if we leave this process in their hands. But there's no rule that says only patent attorneys can offer feedback. Patent examiners are civil servants and accountable to the public at large. The USPTO should hear from software users and developers, who acutely feel the effects of software patents that limit what they can do with their computers and free software.

If you're a U.S. citizen, please write to the USPTO at [e-mail redacted] and tell them that their new guidance should include a strong stand against software patents. Submissions are **due by Monday, September 27**. Please share a copy of your letter with us, by CCing [e-mail redacted] That way the USPTO will know that someone else is keeping track of the number of letters sent.

Your letter should explain how you're affected by software patents,

how software patents take freedom away from all computer users, and
that a strong stance against software patents in USPTO's guidance
would be consistent with the *Bilski* decision. If you like, you can
use some of the text below to help you get started on your letter:

> Software patents hurt individuals by taking away our ability to
> control the devices that now exert such strong influence on our
> personal freedoms, including how we interact with each other. 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. But a single software patent can put up an
> insurmountable, and unjustifiable, legal hurdle for many would-be
> developers.

> 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.

More resources to help you write your letter are available on the End
Software Patents wiki, at
<http://en.swpat.org/wiki/USPTO_2010_consultation_-_deadline_27_sept>.
We'll also follow up there with information about the guidelines once
they're published.

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Brett Smith
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