From: Rich Stokes [e-mail redacted]
Sent: Monday, September 27, 2010 10:57 PM
To: Bilski_Guidance
Subject: public comment on applicability of patent law to software

Dear Sirs,

My name is Richard Stokes and I am the CEO of AdGooroo, a 26 person software company based out of Chicago. I founded my company in 2004 and in that time I have faced an increasing amount of competition from both larger and smaller players, many of whom seek to unfairly capitalize on our ability to innovate within our vertical.

Specifically, during the past 6 years, our proprietary software has been copied no fewer than four times; twice by public companies, once by a well-funded competitor backed with VC money (we are almost entirely bootstrapped), and a fourth time by a small, one-person company operating out of Asia.

While we welcome fair competition - it has no doubt made us a much stronger company - in each of these cases, we invested significant sums in R&D and have had no recourse against those who would appropriate our work and attempt to compete unfairly with us.

Because of these incidents, we have learned that the best way to protect our investment in R&D and deter public companies from engaging in IP theft is through the patent process. Our company has filed three patent applications (Nos. 12/848587, 12/726841, and 12/509734) for original, non-obvious business processes.

Because of the legal protections offered by the patent process:

A) We have been able to engage in fair negotiations with three large, well-funded companies (two of whom have copied us in the past) to license our technologies, without fear of disclosing proprietary ("trade secret") details during these discussions which would allow them to later copy our work.

B) We have a chance of generating a fair return on our innovations and thus justifying continued R&D investment in the future. It goes without saying that most R&D effort is unfruitful or leads to technology which is not commercially viable. Without these protections in place, it is economically rational - and thus inevitable - that larger, well-established corporate entities should adopt a "wait-and-copy" approach to innovation. This in turn will shift the risk of R&D to small technology firms while larger firms retain the rewards for themselves.

Contrary to those who claim that the patent process stifles innovation, speaking as a successful entrepreneur with ten years experience, I can firmly state that the opposite is true. Without patent protections afforded under the law, innovation will become a rare thing indeed. Incumbents already have many advantages over small businesses, including the ability to pay market salaries and attract more talent, ready access to debt and equity financing, and economies of scale in both sales and marketing. Small businesses on the other hand have but two advantages: agility and the ability to innovate. Without the protection afforded by the patent process, we lose one of these important advantages.

The patent process is fairly inexpensive and all entrepreneurs have ready access to it. If there is one weakness that stands out with the current system, it is that patents are not fairly honored in all countries throughout the world and that US businesses will continue to suffer IP theft from countries that do not have well-developed IP law (and indeed, those who propose abolishing software patents need look no farther than China or Russia to see the disastrous outcome such a decision would have.)

In short, my purpose in writing is simply this: I seek the freedom to innovate without the risk of having a competitor simply copy my work and later claim that it was "obvious".

Large companies rarely innovate. Small companies do, but without patent protection, why should we bother?

Sincerely,

Richard Stokes
CEO, AdGooroo, LLC
P: 312-204-4260 x228
[e-mail redacted]