

**From:** Ben Baston [e-mail redacted]  
**Sent:** Sunday, September 26, 2010 4:41 PM  
**To:** Bilski\_Guidance  
**Cc:** [e-mail redacted]  
**Subject:** Software patents inhibit innovation and are anticompetitive

Your Honors,

I have used computers since 1963 when I began programming in FORTRAN as part of my chemical engineering studies at Louisiana Tech University. From that time, my education and significant parts of my livelihood have depended on software openness and sharing -- the way all software was in the beginning. Today, only software licensed under the GNU General Public License (and licenses compatible with it) continue that original tradition. Today, I am a retired engineer and computer consultant, hoping to preserve software openness for future generations.

Today major proprietary software companies eliminate competition from and seek to control those who believe in software openness, by invoking the concept and method of software patents. I oppose the concept of patents on software both because requiring any money for licenses derails the GNU General Public License, and because software -- quite simply -- is mathematics and should be treated as simply an expression of a product of nature.

Software patents, once granted, inhibit innovation by others and are anticompetitive. Software patents are not necessary to protect anyone's financial interests. Note that software patents appeared long after Microsoft made a success of itself with "only" the protection of copyright. Mathematics became patentable through software patents only due to distortion of the patent law through judicial pressures from private interests, an absurdity and affront to all knowledgeable and creative individuals!

Patents have no place in software. There is no appreciable capital involved in creating software and practically zero cost in reproducing the software product. The time to create complex software from scratch is measured in months, and that work is an embodiment of thoughts and ideas intended to benefit society.

The useful life of software is measured in months, sometimes in years, rarely more than 5 years without additional major changes. To protect that work for decades by patents is extreme overkill. All patent protection does is insure the competition can't use the same mathematical algorithms. It is quite sufficient protection of individual creativity to invoke copyright law.

Hopefully you will see fit to deny the continued existence of software patents -- a concept never visualized by our lawmakers, and an impediment to electronic innovation of every type.

Respectfully,  
Ben Baston