

From: Tim Bray [e-mail redacted]
Sent: Sunday, September 26, 2010 8:31 PM
To: Bilski_Guidance
Subject: Submission in re software patent issues

Thank you for the opportunity to offer input to your process. I am a long-time software professional who has worked, at one time or another, for the former GTE, Sun Microsystems, and Google.

1. Whatever the issues of principle may be involved here, consideration should have a view to the practical outcomes of policy choices. The practical outcome of the policies that have been in effect in recent decades includes the current storm of large-scale litigation that prevails in the telecommunication and mobile-product spaces. It is difficult to understand how any general civic good can come of this massive expenditure on legal wrangling.

2. I have co-founded two startup companies. In both cases, in the early days, we were counseled by our investors and advisors to invest substantial amounts of our scarce and precious capital in securing patents. In neither case did we realize any business advantage from the acquisition of these patents. I believe this experience is widely shared among entrepreneurs.

3. It is widely believed among software professionals that an unfortunately-high proportion of the existing software-related patents have issues both with obviousness and prior art. I think that if software will in the future continue to be patentable, it is essential that substantial work go into refining the criteria in these areas.

Best regards, Tim Bray