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Sent: Tuesday, September 28, 2010 12:23 AM
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Subject: End software patents

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.

The previous is copy-pasted, but I have a personal note to add. Software patents suffer from the worst qualities of the current patent system. It is very nearly impossible to write a new computer program that does not violate the patents currently on record, and most definitely impossible to determine if a program violates existing patents in the process of writing it.

The risk of litigation based on thousands of existing, useless patents that are impossible to research and exist solely to punish enterprising software engineers stifles innovation and prevents the creation of new companies and jobs. The patent system as it pertains to the software industry exists solely as a means for those who own patents not to use them to create value for their businesses, but to entrap future work in an endless mire of litigation.

The fact that all software is translatable into mathematic axioms is a sufficient defense for ending what has become a drain on industry worldwide. Please, in the interest of freeing the world's software engineers to pursue meaningful work both theoretical and practical, end software patents.

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--Erik Cunningham