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To: Bilski_Guidance
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Subject: Software Patents

given that whomever receives this is going to get a flood of opinions, allow me to state a few opinions, then delve into just observations.

in my opinion, software patents are bad. bad bad. as in, i, the free software developer working in a vacuum, am liable for violating patents i've never heard of. it denies me the right to capitalize on my own labour (creating awesome technologies, and giving them away for free). it might help to know that i make my living by selling my services to those whom use my softwares. i give the software itself away. and in a patent encumbered field, customers are fearful of using my software, for fear that they may be sued, for using something i'm giving away for free.

I help run freegeekarkansas.org . at freegeek, we take old machinery, and recycle it, placing linux on it. in this role, i encounter and assist people with installing linux on hundreds of machines a week. the gear where the vendors have been providing specifications to (even posthaste) is much easier to deal with, as you can stretch the gear past the 'marketed specs'. for instance, i regularly run P3 cpus at 800Mhz in boards marketed as P2-450 or less.

the gear produced by nvidia has been closed the whole time, and has few published specs to this day. while nvidia has produced a linux driver in the past, and currently, no driver of theirs works with all cards, or all versions of linux.. its a nightmare. nvidia cards have a tendency to end up in the scrapper, due to their level of support.

The argument for software patents i have heard is that if there weren't software patents, there would be hardware level protections of this code, and this is likely right. what would happen in effect is a constant war between people reverse engineering the hardware (like current closed products), and those who wanted to know how it worked.

while the laws of physics are working against anyone who would try this (the 'constant upgrade treadmill' would result in bigger and bigger and bigger chips with more and more anti-tampering), i think the present system is doing more damage, by quashing the right of an inovator operating in a vacuum. I don't build systems in a vacuum, no matter how much i may want to, because software patents prevent me from capitalizing on it.

If software patents were to stop, the rant against non-free software would become more apparent at the hardware level, and i believe consumers would understand more that they do not own their software, they only rent it. its been an absolute battle for me to get the individuals walking into freegeek to even understand that their motherboards contain software, and that this software is different board-to-board.. i believe this problem would disappear, when you had to buy your softwre in little hardware controlled boxes. people understand the sale of physical things much more than software licensing.

Justin Doiel

I hope this helps.