

From: Nathan Fiedler [e-mail redacted]
Sent: Friday, September 24, 2010 1:16 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject:

To whom it may concern,

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 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.

As a software developer, I know all too well the problems that software patents create. As mentioned above, software alone is really nothing more than the application of mathematics and algorithms, nearly all of which have been done before many times over. Allowing well funded companies to obtain patents for ridiculously obvious "inventions" (e.g. Microsoft patenting emoticons comes to mind) is harmful to everyone and serves no one. Even the well funded companies have to pay in the end, not just for the patent application, but for the legal fees to defend themselves against other companies. This, too, I know from first hand experience having worked at Sun Microsystems. I've seen software patents used as a weapon against competitors. I've also filed my own patents while employed at Sun, so I know very well how contrived they can be.

Do what's right and invalidate software patents.

n