

From: Marty Goetz [e-mail redacted]  
Sent: Sunday, September 26, 2010 5:49 PM  
To: Bilski\_Guidance  
Subject: Request for Comment Re: Interim Bilski Guidelines.

Dear USPTO staff,

Although this E-mail does not directly respond to the three questions posed by your Request for comments, I am providing links to my two recent articles in Patently-O that I believe would be of interest to you as your office provides guidelines for determining the eligibility of Process Claims under 35 U.S.C. 101

By way of background, I received the first US software patent in 1968 and have followed the software patent controversy for over 40 years. My credentials are listed in Wikipedia at [Martin Goetz](#).

In my September 14, 2010 article [In Defense of Software Patents - Part 2](#) I comment on the Bilski Opinion as well as give some concrete examples of software-only patents, hardware patents, as well as hardware/software patents.

My November 30, 2009 article [In Defense of Software Patents](#) was in response to the editorial "Abandoning Software Patents" by Ciaran O'Riordan, Director of End Software Patents (posted on Patently-O on November 6, 2009) which had as its premise that software companies are trying to protect "software ideas".

Both my articles reinforce the USPTO position on inventive processes that are "machine" processes, and where the preferred implementation is in software, hardware or a combination of both.

Also, on September 20, 2010 the Free Software Foundation (FSF) published a press release urging its readers to contact the USPTO and ask "that software patents be excluded from upcoming guidance about patent eligibility". You have asked for responses on very technical legal questions and most of your responses will be from IP lawyers. But you may also get responses from the FSF press release readers blindly supporting their position. But there is no evidence that the Software Industry is against the patenting of inventive machine processes.

Please feel free to contact me if I can be of any assistance to the USPTO.

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