

From: Adrian Hull [e-mail redacted]  
Sent: Monday, September 27, 2010 10:46 PM  
To: Bilski\_Guidance  
Cc: licensing@fsf.org  
Subject: Bilski Guidance

Dear Messrs.,

I'm writing to encourage you to stop issuing software patents. As faculty at a liberal arts college here in New York, I am concerned about the negative impact that patented software has on teaching and learning.

Faculty and students use computers and software in so many ways to enhance knowledge; restrictions, such as patents, compromise this knowledge.

For instance, in the research methods/statistics courses that I teach students most often use proprietary statistical software that they purchase at great expense and which limits how often and on which computer they can use it. Depending upon how much -- or how little -- they can afford to pay, this same software restricts the number of cases or observations they can examine, the statistical techniques and tests they can use, and the formats in which they can save their research. It makes exchanging their research findings and collaborating across operating systems impossible or difficult. In such an environment students' frustration or lack of interest in learning research methods or statistics has as much to do with these limitations as with the nature of the subject itself. It also means that fewer students continue in this subject and thus fewer make it their academic or professional career.

The university also spends significant resources paying for site licenses for this same software in campus computer labs, with similar restrictions on how these programs can or cannot be used. Such restrictions may enhance the proprietary software company's profits, but they detract from student learning and pressure me as faculty to modify how and what I teach. They also force the university into a cycle of unnecessary but of course costly upgrades to new(er) versions. In effect, such patented software controls rather than enhances knowledge.

Since computers are so ubiquitous and essential in our lives today, such restrictions profoundly compromise thought, speech, and artistry. Though perhaps more prosaic, research methods and statistics are also part of this universal public heritage. Programs that utilize patents to restrict access to and ability in this public trust are deleterious to knowledge and thus, in my estimation, dangerous to civilization itself.

As the decision in "Bilski v. Kappos" illustrates, the reliance upon the machine-or-transformation test in determining patent eligibility is insufficient. Software is mathematics, and mathematics is not patentable: thus, when combined with the computer, it is clear that patent eligibility does not -- and should not -- apply to software.

Sincerely,

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Adrian P. Hull, Ph.D.  
Assistant Professor, Political Science  
Faculty Advisor, Model United Nations  
SUNY Cortland  
Gerhart Drive, Old Main 207  
Cortland, NY 13045  
607-753-4823 (work) / 607-745-4327 (cell) / 607-753-5760 (fax)  
Skype ID: adrianphull / 607-821-2141

"Our virtues and our failings are inseparable, like force and matter. When they are separated, man is no more." -- Nikola Tesla