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Subject: Input Regarding Software Patent Guidelines

To whom it may concern:

It is my firm belief that patents related to software should be granted only in particular, rare situations. Patents regarding software should only be granted when the software is an integral component of a specialized, unique, and necessarily mechanical solution. Furthermore, those patents should explicitly only apply to the interface between the software and the hardware - not to any particular intricacy of the software itself.

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. That innovation is stifled defies the point of software patents.

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 Constitutional purpose of patents in the United States is to "promote the progress of science and useful arts." Unfortunately, this has not been the case: patents are a tool of larger companies and more often are used to discourage innovation rather than as a reason for a person to innovate. Software patents are granted liberally and too easily to be challenged effectively by a large number of the people capable of innovating.

--Corey T Kump