

From: Allen Lee [e-mail redacted]
Sent: Saturday, September 25, 2010 11:26 AM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: software patents

Dear US Patent Office,

I am encouraged to hear that you are accepting guidance from the public on this very important issue. Software is currently is one of the only sectors where the US has a significant advantage of every other company in the world. The worlds best and brightest want to come to here to fully realize their potential. Technology and specifically software is already a significant part of our economy, and will be a major part of our growth into the future. That is, unless growth and innovation in our sector is hamstrung by software patents. The decisions you make not only have a wide impact on a few big companies, or one sector, but on the competitiveness of the American economy going into the future. I hope you realize this, and make decisions that promote innovation and growth.

I am not a lawyer, I have not studied patents extensively but I can point out the blindingly obvious: Software patenting in our current state is broken. Any programmer or entrepreneur that has attempted to create a significant piece of software will tell you the same. And the system is only getting worse. It is impossible to write a new significant piece of software without infringing on several patents. So even companies who do not believe in predatory patents protect themselves by creating defensive patents. As James Gosling, "the father of Java", put is in his blog entry http://nighthacks.com/roller/jag/entry/quite_the_firestorm:

*"In Sun's early history, we didn't think much of patents. While there's a kernel of good sense in the reasoning for patents, the system itself has gotten goofy. Sun didn't file many patents initially. But then we got sued by IBM for violating the "RISC patent" - a patent that essentially said "if you make something simpler, it'll go faster". Seemed like a blindingly obvious notion that shouldn't have been patentable, but we got sued, and lost. The penalty was huge. Nearly put us out of business. We survived, but to help protect us from future suits we went on a patenting binge. Even though we had a basic distaste for patents, the game is what it is, and patents are essential in modern corporations, if only as a defensive measure. **There was even an unofficial competition to see who could get the goofiest patent through the system.** My entry wasn't nearly the goofiest."*

As a result, the patent system right now is clogged with patents that were deliberately written to be as broad as possible, not to protect innovation contained within the patents, but to protect against extortion by other bad patents, or worse to extort future innovators. I don't know if there is a way to fix the system. But I do think that a world without software patents would be preferable to what we have now.

Sincerely,
Allen Lee

Software Developer