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Sent: Sunday, September 26, 2010 1:47 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: Comments on question 2 in request for comments on Bilski vs Kappos

United States Patent and Trademark Office,

In response to question number 2 outlined in the request for comments concerning the Bilski vs Kappos case: "What are examples of claims that meet the machine-or-transformation test but nevertheless are not patent-eligible because they recite an abstract idea?"

It is worthwhile to point out that while software does indeed change the configuration of a computer, be it electrical or otherwise, the operations, techniques and other elements that make up the software are abstract in nature.

The execution of software is nothing more than an interpretation of operations done by the hardware. The various sequences and techniques that are used to develop software are all entirely abstract ideas that are then translated by other software into something the computer hardware can interpret for the desired result. An example of this abstraction can be found within the existence of virtual machine software. This is software that emulates a functional guest computer running on top of a separate host computer. The only requirement of the host and guest in this instance is that the guest computer software is written so that the host computer can interpret it and emulate its functionality. The guest can then emulate whichever computer it is written to be, even entirely different architectures of computer systems can be emulated this way. Since the guest can emulate any computer it wishes, it can then too run the software that has been created for that computer. With this example, the complete abstraction of software should be evident in that it is never tied to a certain machine.

There are two more arguments for the unpatentability of software. The first being that all software can be decomposed into a single mathematical equation that describes all of its modes of operation and everything that can come of it. The second being that all software is data on its and any data can be viewed as a unique natural number. This is perfectly evident in binary computer software by simply treating the entire software program as one number composed of N-number-of-bytes. From my knowledge, both mathematical formulas and natural numbers are exempt from patents since they are fundamental properties of reality and not tied to anything physical in any way.

Thank you for considering this information when reinterpreting the Supreme Court Decision.

Erik Lund