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Sent: Saturday, September 25, 2010 10:59 AM
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Subject: Suspicious URL:A strong stand against software patents

Patents were intended to be used as a short term shield to protect the "little guy" long enough to ensure they could make a reasonable profit from their creativity rather than the draconian broad sword that they have become - stifling innovation rather than facilitating the flow of new ideas into the public domain. More importantly and to the point, there is no place in the software arena for the patent. Software consists of on-going rearrangements of commonly available building blocks into new configurations. If software is to be truly useful it must be stable and that depends on well debugged routines that can be used and reused. It is irrational to have to craft a new and possibly less efficient and error prone way of doing the same common tasks in order to avoid stepping on legal landmines. That would be like having to design a new hand saw every time someone needed to cut wood for a different cabinet type.

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.

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.

Thank you for your consideration.

Daniel Montalvo