

From: Akkana Peck [e-mail redacted]
Sent: Monday, September 27, 2010 1:48 AM
To: Bilski_Guidance
Subject: Software patents, Bilski v. Kappos

I am writing to speak out against software patents, and urge you to abolish or severely restrict them in the new guidelines being considered by the USPTO.

I'm a software developer; I currently work for a small startup, but I have worked for large companies in the past and I also write free software on my own. In all of these cases, software patents have been harmful to continuing innovation and have restricted the scope of projects we were able to create.

Software patents -- and related business method patents, like "one-click search" -- too often cover obvious, minor changes, such as automatically filling out forms. Once such a patent is granted, it ends up covering extremely broad areas that prevent any further development by any individual or company too small to afford legal fees or to own a large retaliatory patent portfolio. Witness the current impossibility of finding a patent-free video codec for the web, and the resulting difficulties faced by any site wishing to serve video that can be viewed on any device.

Most patented algorithms are either simple logic or simple mathematics; it doesn't make sense that such an algorithm can be patented when the underlying mathematics or logic cannot.

A large number of software patents cover obvious solutions for which quite a bit of "prior art" exists; but since software becomes obsolete so quickly, and the source code of most programs is not available, it becomes difficult or impossible to prove that such prior art exists. And by the time searches and court battles establish such prior art, entire sub-industries have already been killed.

And patents often don't only lead to reduced choice: too often, they lead to no choice at all, having been filed merely to add to a portfolio owned by a "patent troll", a company that exists not to create original work, but to sue other companies which try to create. Not only are

other companies prevented from creating anything new, but the owner of the patent isn't creating anything either. How can this be a good thing?

The original purpose of patents was to "promote the progress of science and useful arts". Patents for hardware devices accomplish that. But for software, that purpose is inverted: software patents retard progress, and make it impossible for small companies and individuals to innovate.

Please restrict software patents in your new guidelines.

Thank you,

...Akkana Peck