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Sent: Sunday, September 26, 2010 9:26 AM
To: Bilski_Guidance
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Subject: Stop issuing software patents

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.

Furthermore, some existing software patents are ridiculous--their descriptions try to disguise processes that are simple, common sense, and--frequently--already used in software across the world. Every day the USPTO receives new requests for such patents, and has to expend effort trying to read through the hype, determine prior art, etc. When such frivolous patents are granted, it limits software developers such as myself all the more; and when the patent owners attempt to gain from their schemes, it burdens software developers, companies, and of course patent lawyers to prove that the process was unpatentable in the first place.

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.

Thanks for your consideration.

Eric W. Wallace