

From: John Bohumil [redacted]  
Sent: Sunday, November 21, 2010 8:14 PM  
To: Bilski\_Guidance  
Subject: Please 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.

As a software developer myself, I understand that every single program I write is built upon a foundation of mathematics and basic logic which are inherently obvious. We need to be able to freely exchange and reuse algorithms and formulas so that future innovations can be built upon the common building blocks of our craft, much as mathematics is built upon the basic obvious elements of addition, multiplication and so on. Imagine if someone were able to patent performing simple arithmetic functions merely because they were implemented with a general purpose computer. This is essentially what is happening when complex logical algorithms are patented and it harms us.

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.

Sincerely,

John Bohumil  
Minneapolis Minnesota