

From: Weston Schmidt
Sent: Friday, January 04, 2013 2:17 PM
To: SoftwareRoundtable2013
Subject: Software Patent Comment

Thank you for providing this opportunity for feedback. The topic of software patents is extremely important to me. I am both a small business owner and an employee of a large (100k+) company.

Software patents are not the equalizing or protecting force that they were meant to be. Instead software patents are most often road blocks and something to live in fear of. The fear isn't that I'm writing code that intentionally violates someone else's IP - no the fear is that I get sued by the dozens of patent trolls for patent that is truly unrelated to anything I am working on. This has led to a very fierce "defensive" patent stockpiling. The patents are often claimed to be defensive, but, like nuclear weapons used for deterrent, can be used to annihilate some unsuspecting entity.

The present system is extremely broken and only favors lawyers.

Large companies are at a disadvantage because they usually have a lot of worth that can be taken for damages. This makes them a potentially lucrative target for attack.

Small companies are at a disadvantage because they often lack the large amount of capital needed to defend themselves from attack, or build a "patent portfolio" that can potentially be used for defensive cross-licensing.

Individual inventors lose out because typically when a company becomes aware of the IP, they often re-engineer their application around the patent. Nearly the only way for an individual is to sue, but that can take huge amounts of capital. On top of which, they lose precious time to work on their next invention.

Software patents undermine the real value of a trade secret. If I have a trade secret that someone else patents & sues me with, I have a potentially huge problem on my hands. Plus I have now lost the competitive advantage that I may have worked for years to gain.

Software is math & truly should not be treated any differently than " $1 + 1 = 2$ ". It is my opinion that they should be made invalid because of this.

Suggestions to fix the current situation.

1. Invalidate all existing software patents. Reject all software patent applications going forward.
2. Reduce the effective date range from 17+ years to 3 years from date issued for existing software patents. Reject all software patent applications going forward.
3. Make the patent owner demonstrate a real product they created/own that uses the patent to be eligible to win a patent case. If they cannot they must pay the lawyer fees + 150% to the person being sued.

Please listen to our suggestions and make the radical changes we so desperately need.

Weston Schmidt
B.S. Computer Engineering from Purdue University
11 years experience as an embedded software engineer