From: anothergmale [e-mail redacted]
Sent: Sunday, September 26, 2010 10:32 AM
To: licensing; Bilski_Guidance
Subject: USPTO Software Patents

Patenting software is like patenting 1s and 0s, or notes in a song or words in a book. As such, copyrights offer the proper protection. Not patents.

I develop software for the Department of Defense. We often operate on shoe string budgets and the potential costs and legal complexity of software patents would cripple our ability to produce mission critical software. This would place us at a tactical disadvantage to other nations, particularly China.

Software patents also 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.

Sent from my HTC EVO on Sprint!