From: Eric Beland [e-mail redacted]
Sent: Friday, September 24, 2010 10:31 PM
To: Bilski_Guidance
Subject: Please end software patents

If the intention of patents is to encourage innovation, in the software world they have the opposite of their intended effect.

Many software techniques are mathematical in nature, even those that are not obviously so. There is often a straightforward way to solve programming problems that independent developers will need in order to make a program function. However, software patents allow something that is not truly an "invention" to be patented. As a small development house, we don't have the money or legal wherewithal to challenge patents nor to keep track of what very basic building blocks of programming have been patented.

Solving computer problems while avoiding patented techniques often becomes similar to creating a calculator that is not allowed to display $1 + 2 = 3$. Sure, you might think of a way to work around the patent by making your calculator add 1 and 1 and 1 individually, but you are forced to do something in a clumsy manner, if it is even possible in an alternate manner, because a fundamental mathematical principal, which was not invented but merely patented, is now preventing you from writing your software.

In fact, because of software patents, we did not produce the licensing software module we wanted to 4 years ago. The value could have been substantial as the current competitor offers a very flawed solution which we could have improved on in a number of ways. However, when I read the patent, it covered only the obvious but was impossible to work around. Because we could not create this software, the US government has less revenue, and our economy has not benefited from software we would have produced. This would be fine if the patent was protecting the investment in R&D on an invention and incentivizing innovation, but that was not the case--it merely allowed a monopoly on the obvious by the unscrupulous. Thank you for your time,

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