Dear USPTO,

Please end the madness known as software patents. Patents were originally intended to promote innovation, but software patents achieve just the opposite. They have a chilling effect on innovation because they make it difficult for software developers, such as myself, to know what legal mines lie ahead should a product become successful. Developers are routinely advised to not check the patent database, because checking for patented work can expose the developer to increased damages should an infringement be later identified.

In the mid-1990's, I was a software developer at Microsoft in the Windows group. As the ship date for Windows 95 approached, we developers were asked to examine our work and identify potentially patentable ideas. We were told that any idea which was somewhat innovative, had the potential for being patentable, and that attorneys would take care of turning our concepts into effective patent applications. Microsoft had been sued by companies such as Wang and Stac over software patents, and so now Microsoft, we were told, needed to expand its arsenal of patents for defensive purposes.

I resisted the pressure from my employer, because I had long believed that software patents are bad for the industry and that the 17 year lifespan (now 20) of the monopoly was way too long for an industry that advances as rapidly as the software industry. Unfortunately, the vague yet tangible pressure from Microsoft was such that my value to the company was at risk if I was not willing to, pardon the expression - "play ball", and have my work be patented. I gave in and, as a result, I have two patents under my name. One joint (#5,815,682) and one solo (#5,675,831).

Both of those patents are not major works of unobvious innovation. They are merely the logical steps taken by software developers based on the needs they faced at a given stage of development of a software project.
It is my belief that other developers in the same situation would have come up with similar solutions. There was nothing genius and unobvious about our work, and I believe this to be the case with the majority of software patents.

The recent Supreme Court decision regarding "Bilski v. Kappos", has provided the USPTO with the opportunity to end travesty that is software patents. I believe doing so is in the best interests of consumers, independent software developers, and the software industry as a whole.

The government should not have a system in place which discourages innovation and slows the pace of discovery.

In my time at Microsoft I had some email dialog with Bill Gates on the subject. I have excerpted some of his replies to me, below.

Sincerely,

Chris Caputo
Seattle, Washington

Date: Thu, 9 Sep 1993 16:36:53 -0800
From: "Bill Gates"
To: "Chris Caputo"
Subject: RE: Patents

Yes I am very familiar with them.

Under the current laws too many patents are being upheld but for now we have to live with that.

Date: Thu, 27 Oct 1994 15:50:03 -0800
From: "Bill Gates"
To: ccaputo
Subject: RE: Patents - A proposal from ground zero.

If all of the companies who are going to sue us over patents would agree to drop their terms that would be great. I have said that no patent system would be better than the current system. No company has been more interested in reform in this area that we are.