From: Grant Gordon [e-mail redacted]
Sent: Saturday, September 25, 2010 1:57 AM
To: Bilski_Guidance
Subject: Software Patents

Dear Mr. Bilski,

Bottom line: software patents are killing technological innovation. Patents have been twisted from their original, important, protective state into tools for patent trolls to launch frivolous lawsuits, and large companies to use as strategic bargaining chips to hold one another off. Every time someone is allowed to patent something like "a student and teacher interact on a web site", or "a text based communication is sent between two devices", whole industries are stifled, and innovation is slowed substantially -- the exact opposite effect than the one patents were created for.

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.

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.

Please do the right thing.

Thanks for your consideration,

Grant Gordon