To Whom it May Concern,

While you are reviewing your guidelines, I want you to please consider why software patents hurt the industry and the consumers.

First, software patents prevent useful tools from being used in most, if not all, software not produced by the company which owns the patent. This enforces or creates a monopoly by the company who owns the patent and prevents consumers from getting more software which could have benefited from this tool. This also means that if a patent is more useful in a domain of software which is not the domain in which the patent holding company works, that domain of software will not benefit from the invention as the company will not create software in that domain. While it is possible to license the software, often the cost of licensing will be too high for many companies to be able to do so. As a result, the beneficial software product will not be released and the consumers will not get their benefit.

Secondly, it allows people or corporations to buy patents and do nothing with them but sue other companies that happen to use the patent. This is a process known as patent trolling and it goes against the spirit of patenting, which is to increase creativity. Instead, patent trolling hurts creativity by preventing people from trying to create new things for fear of being sued. It also hurts consumers by forcing products out of the market or preventing useful products from entering the market due to dependence on that patent. One famous example of this is when Microsoft was sued over Microsoft Word a few years ago and lost. The result of this judgement against Microsoft was that Microsoft Word had to be pulled from the market. This caused everybody who did not own word at that time to be hurt as there were many other, non-infringing, new features in that version of Word, including a new file format.

Thirdly, it creates a protection racket amongst the large companies which in many ways prevents smaller companies from entering the market. The former CEO of Sun Microsystems recently related two stories where he confronted the CEOs of Microsoft and Apple and prevented their suing of Sun by threatening a countersuit. Sun Microsystems was a large company and had many patents with which to protect itself from any suits arising from accidental infringement. Any smaller company wishing to make a product which will compete with those of larger companies will be unable to do so either because the creation of the product itself requires the infringement of patents or because they will accidentally infringe on a patent in the process. This hurts consumers by going back to the problem of enforcing monopoly in the market.

Finally, software patents are permanent and long lasting. In most markets where technological innovation is slower and inventing new things requires a large amount of

investment, this is not a problem. Software, however, exists in a largely mental world where invention may take incredibly short periods of time. The adoption of new technologies and changes in their use is also incredibly fast paced. This creates a world where yesterday's bright new invention may very well be old news and outdated by tomorrow. Patents normally last as long as they do because market adoption can be slow and to allow the technology to become common and possibly outdated by the time the patent has expired. When it comes to software, that entire life span (invention to common practice to outdated) can take less than a decade. The Microsoft example from above comes back to mind. When the patent was created, it was a really cutting edge thing to do. By the time Microsoft reinvented it, it was just common sense. This does nothing but impede innovation in the software world by preventing people from enhancing what already exists for fear of violating a patent which is very outdated.

I would also like to point out that most software patents are issued to companies. This contradicts the point of patenting being made in the first place, which is to ensure the inventors themselves, and not their employers, are rewarded for their inventiveness. Most companies only pay their employees a comparative pittance for inventing something new. This does not reward the inventors themselves at all as it tells them that their inventions are practically worthless while the company makes a lot of money off of them. The point of the rewarding of inventors is to encourage more people to invent more things. If they're essentially being told their creations are worthless, then they are less like to invent them. Instead, it should be required that the patent gets issued to the inventors proper with a permanent license being issued to the company, with a percentage of the company's profits going to the inventors.

It is also worth reminding you that the US Government's policy on monopolies has been to break them up since the 1920s. By continuing to allow software patenting, you are encouraging monopoly and thus acting contrary to our government's policy. Also, inventors are few compared to the number of consumers in the marketplace and the needs of the many outweigh the needs of the few, or the one.

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Earning a Bachelor's of Science in Software Engineering

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