

From: Eric Schulte [e-mail redacted]
Sent: Thursday, September 23, 2010 7:15 PM
To: Bilski_Guidance
Cc [e-mail redacted]
Subject: suggested patent guidance

Hi,

I am a software developer with 5 years of experience working for the federal government. In my experience software patents have done more to inhibit software development than they have to spur innovation.

The following text from the free software foundation concisely summarizes my views on this topic, and I hope that you take it into account when establishing new software patent guidelines.

> 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.

It is my strong and sincere hope that you take this opportunity to increase the freedom of software users and developers.

Very Respectfully,
Eric Schulte