From: Michael Twentyman [e-mail redacted]
Sent: Monday, September 27, 2010 11:42 PM
To: Bilski_Guidance
Subject: NO on Software Patents

I am a software developer by trade, and I know a number of my fellow programmers.

Without exception, everyone I consider as a colleague in this group is against the idea of patents when it comes to software.

To my mind, patents should primarily exist to promote the advance of particular field by encouraging hard work and investment in these areas. Software patents have the opposite effect... they often bind the hands of any developer who would attempt to solve a problem. To be fully compliant with all software patents, would require encyclopedic knowledge off all software patents before one even sat down to produce something. It's unrealistic and hampers innovation. Secondly, the pace of technological change is so rapid, that even if software patents were an overall benefit, their lifespan exceeds the shelf life of the software in almost every case. Software patents are especially disconcerting when used as a tool of extortion. The patent troll needs to die, because they offer nothing except strain on our legal system.

Most relevantly, The Supreme Court 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.

I pray you see this issue our way... the way the vast majority of people who work in this field do every day.

Sincerely,

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P.S.

On a related note, Larry Lessig makes a great case against some patents in his speech on read only culture.

http://www.ted.com/talks/larry_lessig_says_the_law_is_strangling_creativity.html

I believe the clips within that video make the case that mashups (software and music alike) make our world a richer place.