From: Daniel P. Valentine [e-mail redacted]
Sent: Monday, September 27, 2010 3:00 PM
To: Bilski_Guidance; [e-mail redacted]
Subject: Bilski Guidance Input

Dear Mr. Kappos and others of the US Patent and Trademark Office:

I am writing to express my input about the guidance that your Office will be providing in light of the Supreme Court's decision in *Bilski v. Kappos*.

I would like the guidance to say that patents should not generally be issued for software and that the USPTO will have a narrower view of such cases in the future.

By its very nature, software is the expression of a mathematical algorithm, and mathematical algorithms are the type of general concept that are specifically excluded from consideration from eligibility. The expression of that algorithm in a particular way in a particular programming language (or in English) is certainly subject to copyright, but the algorithm itself can be expressed in many ways, and is not subject to patent.

Software also, by its nature, presents instructions that can be performed by a wide variety of existing and future machinery, and can even be performed without apparatus. As a programmer, I have frequently manually executed the steps of a program to understand what I have told the computer to do (sometimes incorrectly). This presents another factor weighing against eligibility that applies to *all* software patent applications.

Because the tools for software development are generally available, and it is within the reach of all people from children to senior citizens and from amateurs to professionals, it is to the advantage of everyone to be able to use these tools to make their computers or other devices function as they would like them to. The fear that someone else may have been issued a patent for an algorithm is likely to chill the desire to write software, as one would have to do significant patent searches to be sure even that programs written for free to support non-profit organizations did not violate patents.

In Bilski v. Kappos, the Supreme Court has clearly

expressed an expectation that patent guidelines will be drawn more narrowly in the future. It is consistent with this decision that software, as mathematical algorithms and their obvious execution by general-purpose computers, should be deemed ineligible for patents.

Thank you.

Sincerely,
Daniel P. Valentine

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