From: [e-mail redacted] On Behalf Of Mike Wiacek
Sent: Saturday, September 25, 2010 6:43 PM
To: Bilski_Guidance
Subject: Software Patents

As a professional software engineer, I firmly stand against software patents as they fail to advance the state of the art in my industry.
Competition is alive and well, and free market forces encourage new development without patents protection. Patent lawyers are the biggest proponents of software patents, and that should be quite telling. This industry is encumbered by software patents more than it's aided by them. IP firms that simply purchase software patents en masse and then launch carpet bombing style lawsuits do not serve to advance the state of the art.

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.

Sincerely,

Mike Wiacek

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