

From: Michael Kelly [e-mail redacted]
Sent: Sunday, September 26, 2010 9:11 PM
To: Bilski_Guidance
Cc: [e-mail redacted]
Subject: Please stop issuing software patents

As a professional software engineer, I am strongly opposed to software patents because of their harmful effect on all users and creators of software.

Software is increasingly accessible to average users, who can make ad-hoc software to fill their specific needs. In the current situation, they are liable for infringement on the many software patents that exist for completely obvious techniques.

Additionally, professional software engineers are effectively unable to read any software patents, for fear that they might one day accidentally infringe on one, and be charged with willful infringement.

Software patents inhibit the adoption of common file formats, and force new (functionally identical) ones to be created, not for technical reasons, but solely to avoid patent liability. To quote the Wikipedia article on software patents (http://en.wikipedia.org/wiki/Software_patent as of 20:23 EST, 2010-09-26), "Creating such formats and supporting them costs money, creates inconvenience to users and even threatens to split the Internet into several partially incompatible sub-networks."

Thus, software patents have a chilling effect on software innovation, both for professionals and the general public, and both in their capacity as users and creators of software.

The US Supreme Court has never ruled in favor of software patentability. To the contrary, *Bilski v. Kappos* shows that they expect *more* stringent criteria to be used in evaluating the validity of software patents.

For these reasons, the USPTO can and should exclude software from patent eligibility.

Thank you for your time,

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Michael Kelly
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My statements are my own and do not indicate the position of my employer.