The state of software patents in 2022

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1. Introduction to software patents
2. Why software patents are a threat
3. The situation in the US and Europe
4. Non-solutions against software patents
5. How to really End Software Patents
A patent is a legal tool that gives its owner the legal right to exclude others from making, using, or selling an invention for a limited period of time in exchange for publishing an enabling disclosure of the invention. Inventions should be new, involve an inventive step, and be capable of industrial application.
A copyright is an author’s exclusive right to copy and distribute a creative work, usually for a limited time. The creative work may be in a literary, artistic, educational, or musical form (including software). It applies to the original expression of an idea in the form of a creative work, but not the idea itself.
What is a software patent?
### Copyright and patents

<table>
<thead>
<tr>
<th>Copyright</th>
<th>Patent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creative work (expression of an idea)</td>
<td>Invention (methods and processes)</td>
</tr>
<tr>
<td>Applies automatically</td>
<td>Must be granted by a patent office</td>
</tr>
<tr>
<td>Governs rights to use, copy, distribute</td>
<td>Establishes a market monopoly</td>
</tr>
<tr>
<td>Duration: life of the author + 50 or 70 years</td>
<td>Duration: at least 20 years</td>
</tr>
</tbody>
</table>
Why are software patents a threat?
Blocking innovation
Extraordinary costs

$$\$$
Harming freedom of expression
Software progress doesn’t need patents
Software is math
Software should be free
END SOFTWARE PATENTS

- Legislative ban of software patents
- No other solutions are enough

https://endsoftwarepatents.org
The situation in the United States
## US Supreme Court decisions

<table>
<thead>
<tr>
<th>Decision</th>
<th>Impact</th>
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<tbody>
<tr>
<td>Bilski v. Kappos (2010)</td>
<td>Low, against software patents</td>
</tr>
<tr>
<td>Alice v. CLS Bank (2014)</td>
<td>Great, against software patents, but not enough!</td>
</tr>
</tbody>
</table>
Legislation *can* overrule Alice
The situation in Europe
(2) The following [...] shall not be regarded as inventions [...]:
(c) [...] programs for computers;
(3) Paragraph 2 shall exclude the patentability of the subject-matter or activities referred to therein only to the extent to which a European patent application or European patent relates to such subject-matter or activities as such.
<table>
<thead>
<tr>
<th>European patent</th>
<th>Unified Patent Court &amp; Unitary Patent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contracting states (not just EU member states)</td>
<td>Only EU member states</td>
</tr>
<tr>
<td>A unified patent application</td>
<td>A unified patent application</td>
</tr>
<tr>
<td>A group of national patents</td>
<td>A unitary patent</td>
</tr>
<tr>
<td>Infringement cases handled separately in national courts</td>
<td>Infringement cases handled by the Unified Patent Court</td>
</tr>
</tbody>
</table>
Unified Patent Court: Probable pro software patent bias
Non-solutions against software patents

- Invalidating harmful patents
- Defensive patent acquisition / pools
- Case law against software patents
- Raising examination standards
- Patent clauses in free software licenses
How to really End Software Patents

• Legislative ban on software patents
• Shield software from litigation
• Increase democratic processes
• Ban all patents?
[ Ways to achieve our goal ]

• Spread the word, write articles, be active!
• Educate (use tools such as ESP Wiki)
• Donate to organizations (FSF, EFF, SFC, SFLC)
• Fuel local efforts to influence policies
• Contribute to ESP Wiki (very much needed!)
Welcome to the End Software Patents Wiki! End Software Patents is a global initiative of the Free Software Foundation with one goal: the elimination of all software patents in the world.

ESP Wiki is a comprehensive tool for finding information about software patents with the aim of organizing a global campaign for their legislative blocking. It includes detailed arguments, campaign material, numerous resources, and extensive legal information.

ESP Wiki is an international collaborative effort fueled by volunteers. It is the best source available for campaigning against software patents. We currently have 649 pages. You can help us expand them and improve their quality.

ESP Wiki is a pool of information, not a statement of ESP’s views or policies.

Navigate  edit

Action

ESP Wiki contains all the information one needs to understand the problem of software patents. It also provides the necessary tools that you need to start influencing the public policies of your country.

Contribute  edit

Getting started

Our vast database would not be possible without volunteers like you. There are many ways to contribute to ESP Wiki. You should take a few minutes to get familiar with the basics. This is your starting point.

General Introduction
Learn why the world should abolish software patents

Campaign Material
Take action against software patents

Why abolish software patents
Understand the goal of the ESP campaign

How to navigate the wiki
Learn how to effectively find information on software patents
Thank you!

END SOFTWARE PATENTS

https://endsoftwarepatents.org
https://wiki.endsoftwarepatents.org