

[The state of software patents in 2022]

END SOFTWARE PATENTS

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FREE SOFTWARE
FOUNDATION



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[What is a patent?]

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.

[What is copyright?]

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]

Copyright	Patent
Creative work (expression of an idea)	Invention (methods and processes)
Applies automatically	Must be granted by a patent office
Governs rights to use, copy, distribute	Establishes a market monopoly
Duration: life of the author + 50 or 70 years	Duration: at least 20 years

**[Why are software
patents a threat?]**

[Blocking innovation]



[Extraordinary costs]

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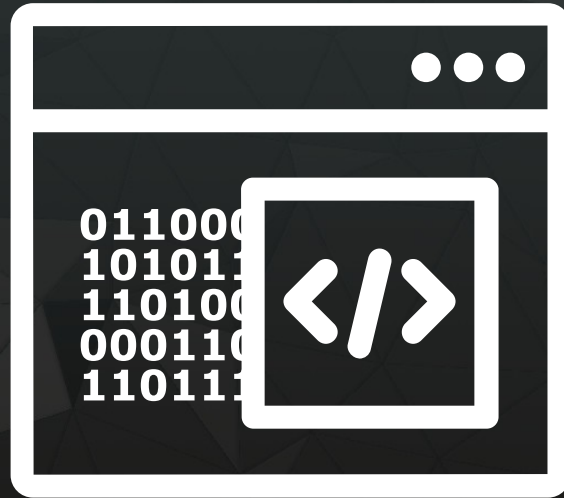
[Harming freedom of expression]



**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

Decision	Impact
Diamond v. Diehr (1981)	Great, allowed software patents
Bilski v. Kappos (2010)	Low, against software patents
Alice v. CLS Bank (2014)	Great, against software patents, but not enough!

**[Legislation *can*]
overrule Alice]**

[The situation in Europe]

[52(2c)(3) EPC]

(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.

European patent	Unified Patent Court & Unitary Patent
Contracting states (not just EU member states)	<u>Only EU member states</u>
A unified patent application	A unified patent application
A group of national patents	<u>A unitary patent</u>
Infringement cases handled separately in national courts	<u>Infringement cases handled by the Unified Patent Court</u>
Patent validity opposition handled by the European Patent Office	Patent validity opposition handled by the European Patent Office

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!)**

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ESP Wiki is looking for moderators and active contributors!

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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

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.



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

Contribute

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.

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[Thank you!]

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