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To: FTC.SERIUS("competitionandintellectualproperty@ftc...
Date: Thu, Nov 29, 2001 12:46 PM
Subject: Comments regarding Competition & Intellectual Property

To the Federal Trade Commission:

I am a semi-professional programmer living in North Adams, MA. I write free software and make use of the GNU General Public License.

The ease with which the US Patent Office has been granting patents in the last few years has already dampened my plans to write software as a primary business. Having read about many of the patents awarded, I realize that not only are many of them obvious and unoriginal, they are sometimes the *only* rational way of doing something.

My understanding of patent law philosophy is that it is designed to speed overall technology advances by encouraging companies to make their ideas public by guaranteeing a temporary monopoly. Ideas are not property, and should not be treated as such.

Here are specific patents that affect me personally:

- For my weather-monitoring software: Patent US5,178,010 would have prevented me from displaying a real-time graph of air pressure on my homemade weather station in the spring of 1994 (had I known about it). The concept of a scrolling graph is ubiquitous (RealPlayer, xnetload, meteorological equipment from the 1950s...). The concept of a barometer is not, to my knowledge, recent. The combination of the two concepts is obvious.

- For my Geographical Information System work: US6,262,741 patents the organization of geographical objects by noting what grid cell they fall in. This is obvious: most road atlases use this idea in their index.

Both of these are patently (sorry) obvious to anyone working in the field. When such patents are owned by large companies with good lawyers, my situation is hopeless.

As a small businessman, I do not expect to have such patents enforced against me. However, it means that if I ever become a competitive threat I can be put out of business on a whim. The recent lenient settlement between the US DOJ and Microsoft is an indicator that I can't expect much antitrust protection from the federal government in such a case.

I suggest eliminating software and business method patents entirely. They do not serve their stated purpose of encouraging invention. By protecting so many trivial ideas, they make it uncertain if I will ever profit from my own. For the system to be good, it must be not only fair, but simple enough that I can use it without a lawyer.

Thanks for your consideration. If you would take these comments more

seriously on paper, I can provide that.

Eric Buddington