Are Software Patents Evil?

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"The labour that was mine, removing them out of that common state they were in, hath fixed my property in them." (Locke)

- IP and ways to protect it
- Issues with software patents
- Moral Implications
INTELLECTUAL PROPERTY

Creations of the mind - creative works or ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them. (USPTO)

- Trade Secret
- Trademark
- Copyright
- Patent
TRADE SECRET

- Is not generally known to the public
- Confers some sort of economic benefit on its
- Is the subject of reasonable efforts to maintain its secrecy.

(wikipedia)
**Trademark**

- Can be word, symbol, image
- Protects marketing devices
- Does not need to be registered
- Applies to a specific filed
SOFTWARE COPYRIGHT

- Prohibits literal copying
- Prohibits copying of program structure
- Protects the expression of the idea, not the idea itself
- MS Word is copyrighted, but OpenOffice doesn’t infringe on MS IP.
SOFTWARE PATENT

- Protects the idea
- Fairly expensive to file
- Usually issued for 20 years
- Before granted can be challenged
SOFTWARE PATENT - CRITERIA

- Idea needs to be new and non-obvious
- Algorithms are not patentable
- Discoveries can’t be patented
- The effect needs to have physical effect (not in US)
Benefits

- Financial incentive to the inventor
- Promotes innovation
- Prevents illegal copying
ISSUES WITH PATENTS

- USPTO does not keep up with the rapid changes
- Laws might be outdated
- There are loopholes that bypass the challenge process
- Absurd patents are granted for obvious ideas
Apple has patent for the pinching gesture

Google has patent for location based advertising

TiVo has patent for a “hardware based device capable of pausing and rewinding live TV”

Facebook has patent for activity stream
“Dynamically providing a news feed about a user of a social network” granted to Facebook.com
LOCATION-BASED ADVERTISING

FIGURE 6
ECONOMIC WMD

- Law firms buy patents to extort money
- Large companies bully smaller competitors
- Difficult to enter the market
- Defensive patent shopping
Examples - Apple

- Steve Jobs “borrowed” ideas of GUI, mouse, window etc. from Xerox
- Subsequently sued Microsoft for IP infringement
- Now suing HTC on 20 counts of IP infringement
- Some of the 20 patents invoked date back to 1985
MORAL IMPLICATIONS

- Absurd patents create legal hassles
- Encourage monopolies
- Withhold benefits from the society
- Favor large companies
Software is property, therefore needs to be protected

Without patents there would be no incentive to invent

In extraordinary circumstances the “Imminent Domain can be invoked”
CONCLUSION

- Protecting IP is very important
- Broad concepts should not be patented
- Laws need to be updated
- More transparent process is required