

# JUST SAY NO!

by Rick Murray

## Be afraid...

Something *very* dangerous is lurking in Europe. Something known as a “software patent”.

Nothing special? Just more rubbish to write about in those licence “agreements”? Wrong, and wrong.

You see, software is already protected by *copyright*. So I can write a program (or, indeed, this document that you are reading) and automatically it is covered by a copyright – go Google if you’d like to know more on copyright laws (don’t read the licences, they pander to your fears, such as “it is a criminal offence to reverse-engineer this software”, while in general the law *does* permit this in very specific (and useful) circumstances).

A software patent is something very much worse. Very insidious. Very *very* dangerous.

## Example 1

Let’s work on a simple idea. The program is going to be a star chart. It will display a grid with a bunch of stars plotted. You can ‘grab’ the screen and drag it around to look west, south, higher, lower...you get the idea. A little menu will be along the top of the screen, and the bottom will display status, time, and help messages. As our computer does not have a hardware cursor, we’ll make a cute little animated spinning earth with a pointer sticking out of the top. This will be placed on-screen using EOR plotting.

How many patents have I just trampled on? That is *your* homework, if you are interested.

I’ll give you a freebie – plotting the cursor on the screen using EOR. Yes, somebody *actually* owns the patent for this. A facet of boolean algebra that you can be thought of as a slow learner if you didn’t know by the time you were twelve years old. It is beautifully simple, yet very effective. You only need to remember *where* your pointer is. To draw it on-screen, just plot it. To remove it from screen, just plot it again. The EOR process just flips the bits. Do it once you have a pointer, do it twice, it is gone and you can place it elsewhere. *This is patented in the US.*

## But surely patents protect?

The *big* businesses will try to convince you that software patents will protect valuable business and prevent theft. This is a *blatant lie*. From what I have been able to find out, the patent system applied to software is about as

unfair a legal process as it is possible to have. Patents are not automatic. You must apply for a patent, at 20,000 to 40,000 euros *each* (much of that being legal fees). This immediately means that people such as myself will never *ever* be able to patent an idea for anything.

Patents can be applied for, seemingly, anything. In America, IBM holds a patent on “*detection and prevention of running multiple instances of a program at once*” (US:05870543). This is suitably vague as to mean that probably must coders in a multitasking environment have trodden on this at one time or another.

*Software patents do not protect innovation or good ideas*, they exist to “protect” the big companies from having to worry about competition.

## There’s more...

But the worst is yet to come.

### **YOU DO NOT HAVE TO STEAL ANYTHING**

One of the useful things about copyright is that you actually have to be a criminal to be prosecuted. You need to have stolen code, music, video... You need to have stolen *something*.

You do *not* need to steal a damn thing to be prosecuted for patent infringement.

So coders such as myself who sit, alone, in a bedroom writing programs for fun and education have a *lot* to fear. The fact that we have no connections to the outside world, no internet feed, and possibly were not even aware of the existence of the patent or the company that holds it... all are totally irrelevant.

Sure, we can fight back, and maybe the patent will be found to be groundless and it will go in our favour. We’ll just need half a million euros to get started with. The big companies (namely IBM who hold an astonishing number of software patents) can come up with this sort of cash.

Me? I doubt I’ll ever approach having a mere fraction of that sort of money.

Further reading, find out more:  
<http://lfp.ai.mit.edu/>

## Who gets the patent?

By the way, did I mention that the software patents are apparently given out on a first-come-first-served basis? You might have had the idea *first*, but if IBM registers the idea before you, they hold the patent and you do not.

And, again, you could argue ... if you have the cash to back you up.

**Example two**

Let's work on another simple idea. We'll take the idea of software patents and apply it to white goods. Assume I own the patent to the concept of "moulded plugs". And I'm not a reasonable person. Nobody can supply a product with a moulded plug unless they pay me. And since some countries won't allow the product to be marketed *without* a plug fitted, the choice is to pay for normal plugs to be fitted, or pay me to allow moulded plugs to be used.

It gets better. There is no sense of "reasonable" necessary with my patent. I could charge the director of a company *one euro* because I think she's a "sex kitten" and very cute; yet turn around and ask the next company for half a million euros because... well, I don't need a reason. I can just do it.

Further reading, find out more:

<http://www.nosoftwarepatents.com/>

**Example three**

Why have companies not fought harder for their patents? Maybe they are waiting for the time when they can wave just one piece of paper in the air and all the competition will run.

Maybe they are waiting for a day when they can say "guys, we actually own the rights to ATMs and you are infringing on our patent".

Suddenly you might find two thirds of the cash machines that you rely on more and more cease working overnight and are physically removed days later, with mammoth lawsuits flying around. You think I'm joking? *Prove* to me such a scenario will never happen here.

There is only one way to stop such a mad idea, and that is to put a halt to the crazier idea of software patents in Europe.

**Software patents will cause unemployment**

It is a simple fact. If I was writing software in America, my choices are to either write and hope for the best, or to research each of the *one hundred thousand* software patents already in existence to see if my little *home-grown* algorithm will land me in trouble. Pretty soon I'll give up and stop coding as most of my time would be spent researching and not coding. Every tweak and alteration of my algorithm would require more research. And unless I patent my algorithm, I'd need to keep on checking through the life of the program. Oh, and since I don't have lots of money and the big companies do, there is actually nothing to stop the big companies from *stealing* my algorithm by patenting it and then squeezing me dry. Lawyers will make a lot of money. Small software companies will close rather than risk the heavy fines of infringing patents. Remember – not knowing is not an excuse...

And if a company closes, there will be unemployment.

**The underlying motive**

I believe the underlying motive is the big companies that made it in software are now worried about the massive and growing acceptance of "open source" products. They have always seen software under lock and key and "trade secret" as being secure and reliable, while only bored hackers released sources to shoddy cobbled-together things they wrote on a whim. The tables have spectacularly turned and the likes of *Linux* can wipe the floor with most closed-source operating systems. It is the American way – if you can't buy out then you litigate. The problem is that the open source movement have not stolen any code. It is all there for you to read if you feel so inclined. And, well, while the movement has several key figures (Mr. Stallman, Mr. Torvalds, etc), the actual work has been performed by *thousands*. Who do you even begin proceedings against?

The answer is beautifully simple. Get them on patent infringement. Get them for "stealing" an idea that probably wasn't yours to begin with – lest you forget, the patents are given out to who applies *first*, and believe-you-me, we *all* know who will be first in the queue if Europe is dumb enough to say "yes".

Further reading, find out more:

<http://www.freepatents.org/>

**Slime tactics**

In January of this year, the EU's Council of Agriculture and Fishery met to discuss a variety of items which were intended to be adopted as legislation without a vote. On the agenda... software patents. This is a very sly and slimy tactic that shows just how far the big software companies will go to push this twisted concept in Europe. They *know* they won't win on the merit of the idea presented on its own, so they'll try the back door approach. Any back door approach – including leaning heavily on Denmark.

**Are you in favour of software patents?**

You might like to consider the points I have raised, and especially the slime tactics, and ask yourself if you are believing in an idealistic concept hyped and spun to sound good, or in a lie that will cause a lot of damage.

These days we are all worried about terrorism from a variety of sources. To my mind, software patents are going to turn into a form of intellectual terrorism. Not now, probably not the days or weeks after the EU would pass such legislation, but when it *really* matters.

**The winners and the losers**

Software patents exist for *one* reason and one reason *only*:

**To make the rich and powerful companies richer and more powerful.**

You and me, us normal programmers? We lose.

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