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Comments Submitted by Rutmian IP

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See attached file(s)I am a patent attorney and machine learning developer living in Israel and practicing there and in the US. I have extensive contacts in the startup and VC/investment situations in Israel and have seen, time and again, that the lack of clarity regarding software patents serves to muddy the waters, giving investors and inventors alike pause as to whether they can effectively protect their innovations. This has gotten to the point that many companies simply put their actual innovation behind walled gardens, using APIs or other means to avoid public distribution of software or disclosure of IP. Then the patent 'game' is played, if at all, simply for appearances and/or to attract investment, often with very vague coverage of the innovations, lowering patent quality and defeating the ultimate purpose of the patent system.
The machine/transformation test and its interpretation have left matters unclear enough to inventors and patent professionals that its a continual drain on resources and source for hesitation on the part of investors.
The imporatance of software can hardly be overstated, even in fields that rely on hardware developments. Take the case of quantum computing: for every startup doing quantum computation hardware, there are around two focusing on software or communications. [https://quantumcomputingreport.com/privatestartup/]

This inconsistent, confused state of affairs is a barrier to progress since time and resources have to be channeled into IP work whose ultimate value is unknown (over and above such uncertainties for other fields of IP). Patents in the field are often written in a vague, overly-general style that lowers patent quality and portfolio valuations. Worst case, patent protection is denied to worthwhile innovation.

As I see it there are a few options, not all of them mutually exclusive:
1. Software patents should be ruled clearly as allowable subject matter
2. Software patents should be banned altogether
3. The European (EPO) standard should be adopted
4. The machine/transformation test should be abandoned
5. The patent term should shortened to reflect the increased pace of innovation

Attachments 1

eligibility_jurisprudence_comments

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1

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