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Comments Submitted by David Hornik - Venture Capitalist

Posted by the **Patent and Trademark Office** on Sep 7, 2021

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My name is David Hornik. I have been a venture capitalist for the last 21 years at August Capital (www.augustcap.com) and Lobby Capital (www.lobby.vc). Prior to becoming a venture capitalist, I was an attorney at Cravath Swaine & Moore and Perkins Coie. Over the course of the last 21 years I have invested in nearly 40 companies, 3 of which have gone public with market capitalization of greater than $40 Billion in aggregate today. I teach entrepreneurship and venture capital at Harvard Law School and Stanford Business School, and have been named to Forbes Midas List of best venture capitalist globally.

As an investor who works closely with early-stage technology companies, I support the existing laws and Supreme Court decisions that prohibit patents on abstract ideas, laws of nature, and natural phenomena. Any changes to those laws would threaten innovation, competition, and economic growth in U.S.

First, the laws that prevent companies from patenting abstract ideas have been overwhelmingly beneficial to innovators and startups in technology-based industries broadly, and the software industry in particular. The current laws help ensure the freedom needed by startups to create, develop, and bring new products to market. The startup ecosystem thrives on innovation and execution. The ability of large companies to leverage broad patents against emerging competition would dramatically curtail innovation.

Second, today's laws against patenting abstract ideas have enabled entrepreneurs, innovators, and start-ups to more efficiently deploy capital – those companies can spend less on legal fees and more on productive activities like research and development and product marketing. For example, when patent assertion entities can obtain (and assert) over-broad U.S. patents that cover basic ideas (for example, in commerce, data transmission, data analysis, etc.), it forces productive businesses to spend limited resources on settlement fees or legal expenses. Large corporations can use similar tactics to assert overly-broad patents against emerging competition, forcing young companies to spend precious resources on legal defense rather than on product development. The Patent Office can drastically reduce this risk by preventing companies from patenting the use of conventional computer technology to perform abstract ideas. The current laws allow emerging companies to minimize the impact of patents on abstract ideas by

allowing those companies to file motions to dismiss meritless cases.

Third, it is abundantly clear from my more than two decades in the venture business that the success of companies developing new technologies and launching new businesses does not depend upon the ability to obtain intellectual property protection for abstract ideas, laws of nature, or natural phenomena; the success of startups depends almost entirely on the quality of a company's ideas and its capacity to execute on those ideas. The current law does an excellent job of creating space for innovation while reducing money wasted on legal fees. Today's patent eligibility jurisprudence in the U.S. has allowed young technology businesses to protect true innovation, while avoiding unnecessary expense and distraction. The result is a thriving innovation engine in the United States today.

Comment ID

PTO-P-2021-0032-0037

Tracking Number

ksr-4lvt-jrcg

Comment Details | **Submitter Info**

Document Subtype

Comment(s)

Received Date

Aug 24, 2021

Page Count

1

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