

THE BROOKINGS INSTITUTION

December 7, 2005

Software and Law:
Is Regulation Fostering or Inhibiting Innovation?

Daniel Ravicher
Executive Director
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SOFTWARE & LAW: IS REGULATION FOSTERING OR INHIBITING INNOVATION?

The Brookings Institution, December 7, 2005

Daniel Ravicher, Executive Director, Public Patent Foundation



Overview

Objective Data of the U.S. Software Patent Situation

Subjective Opinion Depends on Who You Ask

Most Software Technologists Agree Reform is Needed

True Reform Difficult Because of Other Interests

Thoughts for Our Future

SOFTWARE & LAW: IS REGULATION FOSTERING OR INHIBITING INNOVATION?

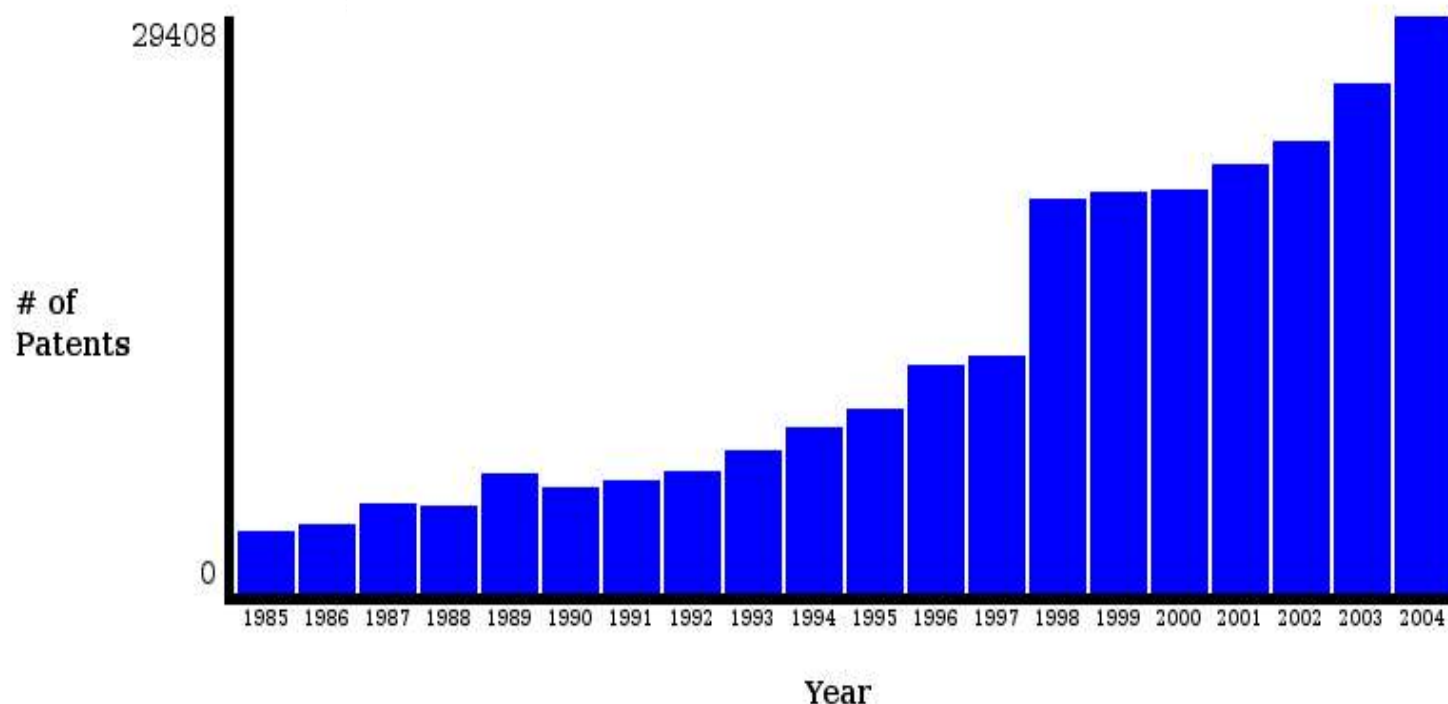
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Objective Data of the U.S. Software Patent Situation

Software Patents Granted 1985-2004



All figures approximated based on patents in classifications 235, 345, 364, 395, 370, 382, 902, 700, 701, 702, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, and 714.

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Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ ?

Patent Lawsuits Filed Every Week ~ ?

Defending Self from One Suit ~ ?

Sending a Patent Notification Letter = ?

Getting Required Opinion After Receiving Letter ~ ?

Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ 600 (and rising quickly)

Patent Lawsuits Filed Every Week ~ ?

Defending Self from One Suit ~ ?

Sending a Patent Notification Letter = ?

Getting Required Opinion After Receiving Letter ~ ?

Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ 600 (and rising quickly)

Patent Lawsuits Filed Every Week ~ 55 (and rising quickly)

Defending Self from One Suit ~ ?

Sending a Patent Notification Letter = ?

Getting Required Opinion After Receiving Letter ~ ?

Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ 600 (and rising quickly)

Patent Lawsuits Filed Every Week ~ 55 (and rising quickly)

Defending Self from One Suit ~ \$2 – 4M (and rising quickly)

Sending a Patent Notification Letter = ?

Getting Required Opinion After Receiving Letter ~ ?

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Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ 600 (and rising quickly)

Patent Lawsuits Filed Every Week ~ 55 (and rising quickly)

Defending Self from One Suit ~ \$2 – 4M (and rising quickly)

Sending a Patent Notification Letter = \$0.37

Getting Required Opinion After Receiving Letter ~ ?

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Objective Data of the U.S. Software Patent Situation

Software Patents Issued Every Week ~ 600 (and rising quickly)

Patent Lawsuits Filed Every Week ~ 55 (and rising quickly)

Defending Self from One Suit ~ \$2 – 4M (and rising quickly)

Sending a Patent Notification Letter = \$0.37

Getting Required Opinion After Receiving Letter ~ \$30 – 50K

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Subjective Opinion Depends on Who You Ask

Large Software Companies

Small Software Companies

Patent Attorneys

Patent Lawmakers (Patent Office, Patent Court, Legislators)

“Patent Trolls”, Non-Producing Entities

Non – Patent Holding Public

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Most Software Technologists Agree Reform is Needed

Poor Patent Quality

Patents Are Too Strong

Litigation Abuses

But Are There Actually Global / Systemic Flaws?

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True Reform Difficult Because of Other Interests

Pharmaceutical Industry

Patent Lawmakers (Patent Office, Patent Appeals
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Patent Practitioners

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Thoughts for Our Future

Keep Eye on the Ball

Keep Eye on the Road

Keep Eye on Your Wallet

Keep Eye on the Prize

Questions and Comments Please

Objective Data of the U.S. Software Patent Situation

Subjective Opinion Depends on Who You Ask

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Thank You

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