



ARE SOFTWARE PATENTS EVIL?

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SOFTWARE IS PROPERTY

"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

- ③ **Is not generally known to the public**
- ③ **Confers some sort of economic benefit on its**
- ③ **Is the subject of reasonable efforts to maintain its secrecy.**

(wikipedia)



TRADEMARK

- ③ **Can be word, symbol, image**
- ③ **Protects marketing devices**
- ③ **Does not need to be registered**
- ③ **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

- ③ **Protects the idea**
- ③ **Fairly expensive to file**
- ③ **Usually issued for 20 years**
- ③ **Before granted can be challenged**



SOFTWARE PATENT - CRITERIA

- ③ **Idea needs to be new and non-obvious**
- ③ **Algorithms are not patentable**
- ③ **Discoveries can't be patented**
- ③ **The effect needs to have physical effect (not in US)**



BENEFITS

- ③ **Financial incentive to the inventor**
- ③ **Promotes innovation**
- ③ **Prevents illegal copying**

ISSUES WITH PATENTS

- ③ **USPTO does not keep up with the rapid changes**
- ③ **Laws might be outdated**
- ③ **There are loopholes that bypass the challenge process**
- ③ **Absurd patents are granted for obvious ideas**

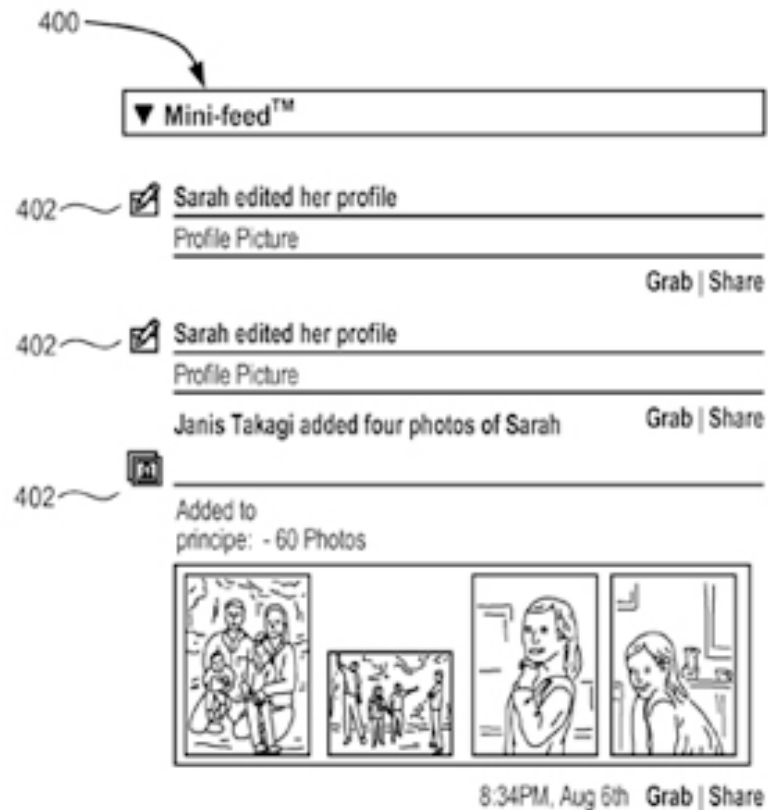


OBVIOUS IDEA EXAMPLES

- ① **Apple has patent for the pinching gesture**
- ① **Google has patent for location based advertising**
- ① **TiVo has patent for a “hardware based device capable of pausing and rewinding live TV”**
- ① **Facebook has patent for activity stream**

FACEBOOK'S ACTIVITY STREAM

“Dynamically providing a news feed about a user of a social network” granted to Facebook.com



LOCATION-BASED ADVERTISING

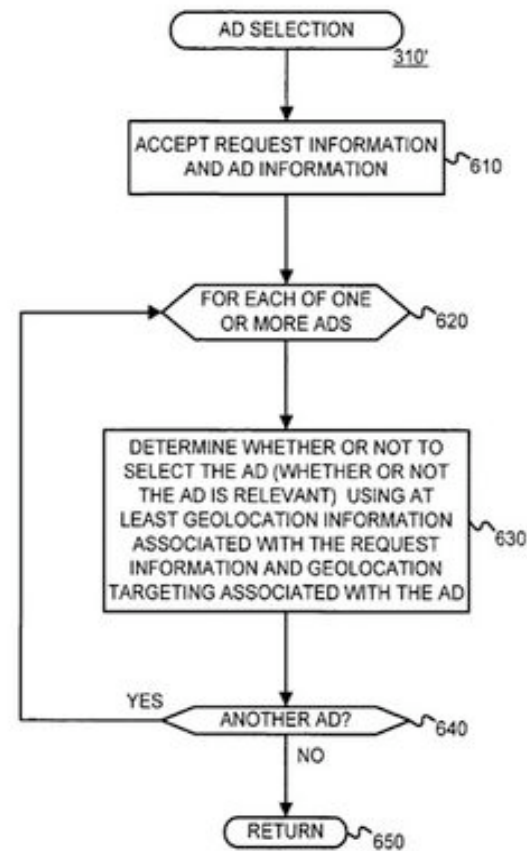


FIGURE 6

ECONOMIC WMD

- ③ **Law firms buy patents to extort money**
- ③ **Large companies bully smaller competitors**
- ③ **Difficult to enter the market**
- ③ **Defensive patent shopping**

EXAMPLES - APPLE

- ③ **Steve Jobs “borrowed” ideas of GUI, mouse, window etc. from Xerox**
- ③ **Subsequently sued Microsoft for IP infringement**
- ③ **Now suing HTC on 20 counts of IP infringement**
- ③ **Some of the 20 patents invoked date back to 1985**



MORAL IMPLICATIONS

- ③ **Absurd patents create legal hassles**
- ③ **Encourage monopolies**
- ③ **Withhold benefits from the society**
- ③ **Favor large companies**

COUNTERPOINTS

- ③ **Software is property, therefore needs to be protected**
- ③ **Without patents there would be no incentive to invent**
- ③ **In extraordinary circumstances the “Imminent Domain can be invoked”**

CONCLUSION

- ③ **Protecting IP is very important**
- ③ **Broad concepts should not be patented**
- ③ **Laws need to be updated**
- ③ **More transparent process is required**