



Software Patents and Legally Required Greed

Published Wed, 2006/08/02 - 22:01 4 comments Tags: blackboard | patents | rants.

I've been biting my tongue on this whole Blackboard-patents-the-LMS brouhaha that's going around. I did add my 2 cents to the Wikipedia VLE Prior Art page, with a link to one of the two LMSes I've been involved in building before Blackboard applied for this patent.

What follows is a largely stream-of-consciousness rant about some of the issues involved.

I find it completely unfathomable that such a basic and well established classification of software could be summarily handed to a single company. I'm planning on taking some time to actually read the patent, to see if it's as general as everyone says, or is it really (hopefully) a vaguely worded description of their particular implementation. A cursory glance at it suggests that they've managed to throw in utilities ranging from online storage of user data, to storing files on a server...

However, the greater problem isn't this particular case, but rather the more general issue of software patents as a whole. These intentionally vaguely worded litigation factories only benefit one group of people - shareholders in the patent holding company.

Here's what's driving the whole patent engine - public companies are held legally responsible to maximize profit for their shareholders. To the extent that if they fail to generate profit (or acceptably sufficient profit) they can be sued by shareholders. The board of directors is liable. Which drives public companies to squeeze every possible gram of cash out of any possible revenue stream. If they failed to get the patent for a product, and someone else managed to get it - and then came after the company - shareholders would be pissed. So, software patents are conceptually an arms race. Companies are filing patent applications for anything they can think of in order to both protect themselves from others doing the same thing, and to maximize profit by handing the patent to their lawyers and owning a market segment as a result.

But - the patent office should be acting as a filter, preventing these blatant patent grabs as being invalid before getting rubber-stamped. If the patent office can't properly vet applications, the office should be closed as ineffective or worse.

If Blackboard wants to recoup some karma, they should sign the patent(s) over to an impartial body, ensuring that the patent is used only as a first strike protection to prevent evildoers from obtaining said patent and obliterating an entire marketplace.

So... Who's the best candidate to be handed the patent? IMS? IEEE? Creative Commons? UN?