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Hon. Simon Power  
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Dear Minister

I am writing to give you a clear message of support for the Commerce Select Committee and your own stance on software patents as they apply to the Patents Bill. The New Zealand Open Source Society represents New Zealand developers, businesses and users of free and open source software. We have long held the opinion that software patents are harmful to the software development industry as a whole and to New Zealand in particular.

Many companies and individuals gave evidence during the Commerce Select Committee hearings on the Patents Bill and most positions were represented. We were one of those organisations, but by no means the only voice opposing software patents. The weight of academic evidence and practical experience demonstrates very clearly the net harm caused by software patents. Of particular concern to software developers is that patents remove our ability to control the licences under which we distribute our code. Software licences assume Copyright law applies and allow individuals and companies to control the terms of the usage of that code. Patents are a threat to that model because they effectively hand over that control of our works to unknown third parties who have not many any contribution to that work. This is a concern not just for those who wish to distribute software freely and in an unencumbered manner, but also for all types of software developers.

The prevalence of that concern was recently demonstrated when the NZ Computer Society surveyed its members on this topic and more than 80 percent of respondents expressed a view that they should be removed from the Patents Bill.

Receiving a statutory monopoly in the form of a patent is a privilege, not a right. The Society considers that those wishing to enjoy the private benefit of this privilege need to make a clear case that the social, economic and cultural benefits exceed the undoubted harm that monopolies cause. Since the Select Committee published its unanimous recommendation, we have seen no new and compelling evidence being placed in the public arena that might cast doubt on the Committee's analysis. On the contrary, recent court decisions in the United States, such as in the areas of gene patenting, business methods and computer software, suggest a judicial determination to rein in patenting that has gone too far, turning information that should be freely available to all into property exclusively held by a few.

In conclusion, the NZ Open Source Society supports the proposed change to the Patents Bill that "A computer program is not a patentable invention" and we support Government's stated position on this.

Yours sincerely

Don Christie  
President, NZOSS