COMPUTER SOFTWARE: COPYRIGHTS V. PATENTS

Mohammad Amin Naser *

I. Introduction 37

II. The Copyrights/Patents Dilemma 38

III. Problem With the Current Theoretical Approach to Software: Utilitarian Grounds 40

IV. The Proper Solution: Social-Planning of Computer Software 41

V. Conclusion 42

I. INTRODUCTION

Among the relatively new technological developments emerging in today's world, highly developed software production occupies an increasingly important position. In light of this industry's growth, and its dominance in almost all aspects of modern life, the need to establish an appropriate scope and legal boundaries for its protection seems to be a matter of crucial importance.

Computer software[1] is used in almost every home in modern society. Thus, producers of computer software are pushing for the maximum protections available, in order to ensure the highest imaginable profits. However, from a legal point of view, there remains a need to examine the policy-making process

---

* Moh'd Naser is a PhD candidate and tutor of contract law, University of Leicester, UK.

[1] The U.S. Copyright Act provides that a "computer program is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result." *See* Copyright Act 1976, 17 U.S.C.A. § 101. The World Intellectual Property Organization (WIPO) defines "computer program" as a set of instructions capable, when incorporated in a machine-readable medium, of causing a machine having information-processing capabilities to indicate, perform or achieve a particular result. *See* The WIPO Model Provisions on the Protection of Computer Software (1978). *See also* Rosa M. Ballardini, *Software Patents in Europe: the Technical Requirement Dilemma*, 3 J. INTELL. PROP. L. & PRAC. 536, 563-64 (2008).