

# Code on Disks and Hat Tricks – Is Computer Software on a Medium Really Patentable?

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## Introduction

There is no question that computer software plays a major part in the modern world and our present economy. Almost everything we do involves computer programs. It is software that powers our computers, that controls our refrigerators, that navigates our cars and our planes. Software is in many things we touch every day, from our watches to our TVs, from our cameras to our phones. The items that do not contain software are nonetheless often produced with the help of computer algorithms: our food, clothes, medicines and tools. Indeed, it is hard to imagine a world without software.

Software is often quite innovative, and computer programs can be the result of ingenious design and creativity. Nevertheless, courts have struggled with the patentability of software for decades – almost since the dawn of the computer age. There are few other classes of technology today that engender as much controversy in the patent world.

Why is it that this area of technology seems to have been the black sheep of the patent family? There could be several explanations, but the main problem stems from the fact that software is intangible. By itself, code does nothing. Software is little more than letters and numbers on

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