8/6 Pottery Court
Brunswick
VIC 3056

(03) 9024 2467

October 14, 2011

Mr Jeff Carl
Secretariat
Advisory Council on Intellectual Property

Dear Mr Carl,

Re: Review of the Innovation Patent System

We would like to express our concern about the harm caused by patents on computation and information processing (software patents). "Innovation patents" raise exactly the same problems, but are easier to obtain, making the effect worse.

As experienced members of the software industry, we witnessed the rapid and extensive innovation that took place in Australia during the decades prior to the first software patent in 1991. Since then, we have continued to innovate, without relying on and in spite of software patents.

The harm that these patents cause to the software industry and society include:

- reduced growth in small and medium sized businesses
- an explosion of litigation
- higher costs of software to offset extensive legal cost
- division of communities by patented technologies, such as file formats

"Innovation patents", despite their shorter term, simply amplify these problems. The reduced examination requirements and lower barrier of inventiveness means there are just more of them, further threatening innovation.

We strongly recommend that all patents on computation and information processing, including "innovation patents", be abolished.

Sincerely,

Ben Sturmfels
on behalf of:

Bill Appelbe
CEO of the Victorian Partnership for Advanced Computing (VPAC)

Dr Anthony Berglas
Software developer and Director of Southern Cross Software Queensland

Roger Clarke
Xamax Consultancy Pty Ltd and Visiting Professor at ANU and UNSW

Dr Les Kitchen
Honorary Senior Fellow in the Department of Computer Science and Software Engineering, University of Melbourne

Rusty Russell
Australian free software programmer and advocate, known for his work on the Linux kernel

Dr Andrew Tridgell
Australian computer scientist known for his work on the Samba file server and visiting fellow at ANU