



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee, Singapore, 1 to 3 February 2004

“Proposal for a Directive on the Patentability of Computer-Implemented Inventions – Amendments by the European Parliament”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Singapore, 1-3 February 2004, resolved that:

Recognising the desirability for legal certainty through harmonization of the interpretation by European Member States of the legal rules regarding the patentability of computer-implemented inventions (CII's) and that such legal certainty should permit enterprises to derive the maximum advantage from the patent system as far as it is applied to CII's and should provide an incentive for investment and innovation in that field;

Considering that such desirability was one of the basic premises for the Proposal by the Commission of the European Union for a Directive of the European Parliament and of the Council regarding the patentability of CII's, published on February 20, 2002, that the Proposal had the unanimous support of all Member States, that the Council of the European Communities accepted the Commission's Proposal with only minor amendments and that the Parliamentary Committee on Legal Affairs (JURI) approved the Commission's Proposal, in June 2003, also with a small number of amendments;

Considering that the proposal was submitted to the European Parliament which, subjected to lobbying pressure from anti-patent groups, voted no less than 64 amendments;

Observing that such amendments effectively reverse the effect of the proposal of the Commission, introducing, amongst others, provisions that would result in severe restrictions on the patentability of inventions and enforceability of patents not only in the field of computer-related inventions, but also in other technical fields, in conflict with international contractual obligations and contrary to the official policies of the EU Member States; and

Noting that, while lacking harmonization in some details, the current legal status of patent protection for computer-implemented inventions is generally acceptable for all companies and individuals affected by patent law in Europe;

RECOMMENDS:

that full consideration be given by the Competitive Council to the following:

- (i) the Proposal, as amended by vote in the European Parliament on September 24, 2003, contains numerous violations of the TRIPS agreement;



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- (ii) the Proposal, as amended, introduces severe restrictions on the patentability of all inventions utilising a programmable apparatus (e.g. a microprocessor), such as in the fields of electrical engineering, telecommunications, medical appliances and automobile controls;
- (iii) information technology is an area of technology that involves data processing which cannot in the 21st century reasonably be considered as non-technical within the meaning of the patent law (see Article 3a as amended);
- (iv) European competitiveness would certainly be affected negatively if the Directive as amended were to be adopted;
- (v) legal uncertainty would be increased by the adoption of the Directive as proposed to be amended, deterring investments of high-tech companies in Europe; and
- (vii) the attached FICPI Position Paper containing comments and conclusions relating to the Proposal as amended on September 24, 2003 by the European Parliament;

AND URGES :

A return to the original proposal of the Commission, the contents of which were unanimously accepted by the Member States and by the Parliamentary Committee on Legal Affairs;

or

In the event of no consensus being reached, the abandonment of the proposed Directive.