

Item	Intellectual Property Note № 01/2001
Title	Observations on Replies to the EU Consultation Paper on the Patentability of Computer-Implemented Inventions
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Type	Political

On 19 October 2000, the European Commission had launched consultations via the Internet on the patentability of computer-implemented inventions. Interested parties, the public at large and Member States had been invited to comment by 15 December 2000 on the basis of a consultation paper. According to the consultation statement, the aim of the consultation was to help the Commission to identify the best approach to the issue so as to strike the right balance between promoting innovation and ensuring adequate competition in the market place.

Meanwhile, the Commission has managed to put some of the submissions received on their web site:

http://europa.eu.int/comm/internal_market/en/intprop/indprop/softreplies.htm

There are two groups of published submissions:

- Texts issued by a number of established organisations in the IP business mostly more or less in favour of patenting computer-implementable inventions;
- Texts issued by Eurolinux or related individuals raising more or less strong concerns against patenting computer-implementable inventions.

The EU Commission has not fixed its position yet. However, valuable hints can be gained from a paper presented by Mr. Heinz Zourek, Deputy Director-General, DG Internal Market, European Commission, on a Symposium "Protecting IP Assets in the New Millennium" held by AIPLA and ICC in Paris on February 15-16, 2001

<http://www.aipla.org/html/symposium/zourek.pdf>

In particular, Mr. Zourek said:

»[...] A preliminary analysis of the more than 1,400 comments shows that more than 1,300 contributors are against patents for software-related inventions. Only patents for "traditional inventions which include a computer program, for example in the case of the chemical or mechanical industry" do not appear to be controversial (called "other technical areas" at the outset). It is believed that such patents would not affect developing and using software which runs on a general-purpose computer. The overwhelming part of the negative comments were apparently instigated by an organisation which promotes "open standards, open competition and open source software".

A vast majority of the around 100 comments in favour of software-related patents express broad support for the harmonisation of Member States' patent laws on the basis of the current EPO practice. Most of these comments originate from associations which represent large companies and SMEs, from these companies themselves and from their legal counsel. The economic importance and the number of jobs represented by these advocates of software-related patents is much greater than of the opponents.

[...]

The Commission intends to decide its position on computer-implemented inventions in general and on computer-implemented business methods in particular before the Spring.«

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