

10 September 2003

Dear Mr Poettering

RE: PATENTABILITY OF COMPUTER-IMPLEMENTED INVENTIONS

UNICE has welcomed the adoption by the Legal Affairs Committee of the McCarthy report on the patentability of computer-implemented inventions.

Legal certainty in patent protection is a key condition for industry to invest in software development. Such certainty needs to build on the existing interpretations of the legal framework. The proposed directive should confirm the current scope of patentability and ensure that the long-standing European practice, which has supported European innovation and competitiveness, is not disrupted.

However, UNICE is highly concerned with proposed amendment 20. Amendment 20 would make it impossible for wide areas of European industry that develop new solutions depending on data communication, especially telecommunications and information technology companies, to obtain useable patent protection for those solutions. The language of the amendment is unclear, excessively broad and beyond the remit of the proposed directive. It is not restricted to "computer-implemented inventions" but extends to "**patented techniques**" thus clearly including pure hardware inventions, applicable, for example, to integrated circuits.

Moreover, amendment 20 goes beyond current EU law on interoperability. By restricting the enjoyment of patent rights in a specific field of technology, it is contrary to the WTO TRIPs agreement.

We attach a list of examples of everyday technology areas that we believe would be negatively impacted by amendment 20.

We therefore ask the European Parliament and more particularly your political group to delete amendment 20 or any other similar amendments at the upcoming September plenary session and support the report by Arlene McCarthy as adopted by the Legal Affairs Committee.

We thank you in advance for your support and remain at your disposal for any further clarification.

Yours sincerely,

(original signed by)
Philippe de Buck
Secretary General

Annex: list of patentable technologies

Patentable Technologies	Enforceability		
	Current EPO Law	JURI Report	
		Without Art. 6a	With Art. 6a
Television: <ul style="list-style-type: none"> reception/conversion of broadcast TV signals 	Yes*	Yes*	No
Set-top Boxes: <ul style="list-style-type: none"> to view satellite and digital signals on a conventional TV 	Yes*	Yes*	No
Radio: <ul style="list-style-type: none"> reception/conversion of broadcast radio signals 	Yes*	Yes*	No
Audio (sound) Recorders: <ul style="list-style-type: none"> Converting speech and music signals from one format to another 	Yes*	Yes*	No
Video recorders: <ul style="list-style-type: none"> Data compression for image handling 	Yes*	Yes*	No
Digital Cameras: <ul style="list-style-type: none"> Image processing 	Yes*	Yes*	No
Mobile phones: <ul style="list-style-type: none"> How a mobile phone connects to the mobile network How speech is converted into signals so the voice can be transmitted 	Yes* Yes*	Yes* Yes*	No No
Mobile phone networks: <ul style="list-style-type: none"> How a mobile network communicates with the fixed landline network How a mobile network communicates with other networks 	Yes* Yes*	Yes* Yes*	No No
Wireless connectivity: <ul style="list-style-type: none"> Bluetooth, e.g. for connecting a mobile phone to a PDA Infra-red wireless connections, e.g. for connecting a printer to a laptop computer 	Yes* Yes*	Yes* Yes*	No No
Credit Card machines and banking terminals: <ul style="list-style-type: none"> Communication between a terminal used by a customer and a central computer in the bank offices. 	Yes*	Yes*	No
E- commerce and m-commerce <ul style="list-style-type: none"> Security for on-line transactions using encryption 	Yes*	Yes*	No
Remote control handsets: <ul style="list-style-type: none"> Communicating with all kinds of devices (e.g. TV, garage, lights etc) around the home and office 	Yes*	Yes*	No

* Provided there is a technical contribution