

From: anonymous
Sent: jeudi 9 novembre 2000 15:37
To: MARKT SOFTPAT
Subject: Study "The Economic Impact of Patentability of Computer Programs"

Thank you for your invitation for comments regarding the above study.

I give my full permission for the following comments to be published by you in any form; however please remove my name and email address before doing so.

I think that software patenting is a minefield. The main point I would make is that a regime which allows more, and vaguer, patents strengthens the hand of larger companies, since they have the resources to bring litigation in enforcement of patents. Even when smaller companies can enforce patents, a trial is a large drain on resources, and developer time if said developers must give evidence. (I've never been through this but have heard about it second hand).

So, if the EU wants to promote the innovation of smaller software businesses, it should:

- have a high 'innovation threshold' before a patent can be claimed
- make patents very specific (goes with the last point)
(so that larger companies can't threaten smaller ones with vague patents)
- make patents more easily enforceable without a large drain on resources
(possibly by simplifying the laws regarding patents)
- outlaw patenting of methods already in the public domain

Also, a law of precedence would be useful, whereby if anyone could prove conclusively that they had independently developed a method before a patent holder, the patent would be invalid (perhaps putting the method in the public domain?), thus protecting those who don't have the resources to search and register for patents. This would be similar to the law on copyright in the UK.

I hope these comments are useful.

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