

Poland and Software Patents

<http://swpat.ffii.org/gasnu/pl/index.en.html>

Workgroup

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Poland has taken a conservative approach to patenting and explicitly defined the “technical invention” as “use of forces of nature” in its patent law, and the Polish Patent Office (PPO) has been reluctant to grant software patents. Yet the choir of patent lawyers from large IT companies in combination with local patent lawyer interests, which has been chanting the “TRIPs requires software patents” and “We must follow the EPO practise” tunes, has had effects in Poland as well. The “forces of nature” provision was recently deleted from the Patent Law. Meanwhile of the 35000 EPO software patents identified by FFII, only one belongs to a polish applicant, and that one is not even a software patent in the strictest sense. It is clear that the Polish local patent lawyers are not chanting Polish local tunes.

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- [AIPPI.de 2002-11: polish-german indprop seminar report](#)¹

*<http://lists.ffii.org/mailman/listinfo/traduk>

¹http://www.aippi.de/seiten/seminarV_report.html

AIPPI.de secretary PA Stephan Freischem reports inter alia about the EuroParl Hearing and about a lecture given by his polish colleague Marek Laszewski on the patentability of data processing in DE, PL and EU, in which Laszewski points out that the European Commission's directive proposal raises more questions than it answers and that its concept of "technical contribution" leads to legal insecurity. Freischem downtones the critical meaning of Laszewski's lecture and instead falsely states that Laszewski "drew the conclusion that the U.S. approach which grants patent protection to any useful invention made by man which is new and inventive, independently of a technical character, gives much better legal certainty."

- **AIPPI 2002-11 on EuroParl Swpat Hearing²**

Patent Attorney Stephan Freischem, secretary of the German Section of AIPPI, reports what he heard the speakers say at this hearing. It differs significantly (often diametrically) from what we heard. Freischem concludes his report by an exhortation to his peers to mobilise "those software companies that profit from the patent system". Freischem acknowledges that the term "technical" is ill-defined today, because the "open source lobby" has "twisted the issue of harmonisation of software patent protection into a question of free speech". In another AIPPI report of 2002-11, Freischem, by misrepresenting a polish colleague's speech, explains that US practise would be preferable to EPO practise, because the term "technical" only creates legal uncertainty.

- **letter phm to laszewski³**

Comments on Laszewski's paper on the technical invention in PL, DE and EU and suggests that Freischem has misrepresented this paper by claiming that it praises the US system for achieving "much better legal certainty".

²http://www.aippi.org/reports/report_eu_nov_02.pdf

³<http://aful.org/wvs/arc/patents/2002-11/msg00042.html>