

# Nokia 2004-04-04 Call for Action

<http://swpat.ffii.org/papers/europarl0309/nokia0404/nokia0404.en.html>

Workgroup

swpatag@ffii.org

english version 2004/04/09 by FFII\*

2004-04-09

Nokia's Patent Department is collecting signatures from CTOs for this letter in support the "working document" of the EU Council "Working Party on Intellectual Property", a group of patent administrators who run the European Patent Office. The letter portrays this document as a "balanced compromise" which "takes the Parliament's concerns into account" and says that this is needed in order to assure that electric household appliances, medical technology etc do not become unpatentable. Thereby the letter drafters deceive both their signatories (CTOs who usually do not read the directive proposals) as well as their readers.

## Contents

### 1 The Text

*CALL FOR ACTION*

*Proposed Directive on Patentability of Computer-Implemented Inventions  
Joint Statement*

*As some of Europe's most innovative technology companies, we call upon  
ministers at the May Competitiveness Council to adopt a Common Position*

---

\*<http://lists.ffii.org/mailman/listinfo/traduk/TradukListinfo.en.html>

*on the proposed EU directive on the patentability of computer-implemented inventions. The 17 March 2004 Consolidated text proposed by the Irish Council Presidency deserves the support of all Ministers in the Competitiveness Council.*

*We commend the Irish Presidency for presenting a balanced text which preserves the incentives for European innovation in sectors as diverse as telecommunications, information technology, consumer electronics, household appliances, transportation and medical instruments while responding to the European Parliament's call for limitations to ensure that patentability does not extend into non-technical areas or unduly hinder interoperability in our increasingly networked society.*

*Failure to adopt a balanced Common Position as proposed by the Irish Presidency in March 2004 will undermine innovation in Europe. Broad-based exclusions for data processing technologies, information handling, or techniques used for the so-called "conversion of conventions" would make very many patents already granted in Europe unenforceable. This would undermine licence agreements we have with other companies, many of whom are based outside the European Union in jurisdictions where computer-implemented inventions will remain patentable, shifting the balance away from European companies, making our businesses more risky, and reducing the potential for return on investment from royalty revenues which currently flow to European companies and which help fund continuing research and development activities.*

*All of Europe's innovators, including individual inventors, small and medium size enterprises (SMEs), as well as large multinational companies, require patents to protect their inventions, provide incentives to undertake research and development in Europe, and to promote licensing and technology transfer.*

*Your action is required to safeguard innovation in Europe, so that society may continue to benefit from technology advances in products as diverse as mobile telephones and cars which increasingly rely on computer-implemented inventions and to avoid jeopardising the ambitious Lisbon goal of making Europe the "most competitive and dynamic knowledge based economy" by 2010.*

*COMPANY LOGOS (and CTO signatures)*

## **2 Annotated Links**

- **Software Patents Resurfacing to the Political Agenda<sup>1</sup>**

In the Council of Ministers of the European Union, national patent administration officials have concluded their secret negotiations about the

---

<sup>1</sup><http://swpat.ffii.org/news/04/cons0402/cons040402.en.html>

proposed EU software patent directive. The resulting document rejects all clarifying amendments made by the European Parliament and instead pushes for direct patentability of computer programs, data structures and process descriptions. A last minute attempt by the Luxemburg delegation to allow interoperation with patented standards was rejected. The Irish Council presidency wants the ministers to jointly adopt this text at the “Competitvity Council” meeting on May 17-18. Nokia’s Patent Department is collecting signatures from top company executives for a “Call for Action” in favor of the Council position. The supporters of the European Parliament’s position are mobilising for a “net strike” and a rally in Brussels on April 14th under the slogan “No Software Patents – Power to the Parliament”. Similar actions had helped convince the European Parliament to vote against software patentability in September 2003.

- 

- **Unice/Eicta/ICC etc 2003/05/22: “Joint Statement of the Industry” for Software Patents<sup>2</sup>**

In a “Joint Statement of the Industry”, directed to the Members of the European Parliament (MEPs), the presidents of various industry associations, including Graham Taylor from the “Open Forum Europe” as a representative of the Linux/Open-source world, asks the legislators to ensure

1. that computer programs are treated as patentable inventions and
2. programs are directly claimable, so that programmers can be sued for publishing a program.

Moreover, as means of “protecting opensource software”, the signatories ask the European Parliament to ensure that

1. whenever an interface is patented, interoperable software may not be published or used without a license
2. business methods are patentable “only” to the extent that a computer or some other device is involved
3. the European Commission shall publish more papers (obituaries?) about the effects of patents on SMEs.

This statement was sent to many MEPs, together with accompanying letters from the patent arms of national industry associations. Traditionally industry associations have left patent politics completely to corporate patent lawyers, who typically form each association’s “industrial property committee”. This committee’s papers are usually signed by the president of the association without further consultation of other committees. Gentle doublespeak with an ungentle insider meaning, as explained above, is also part of the game. What is unusual about the current letter is that an apparent “opensource community leader” was enlisted for the maneuver.

- **Call for Action II<sup>3</sup>**

The European Parliament has voted for legislation that would effectively exclude software and business methods from patentability. However European patent legislation is still largely in the hands of ministerial patent experts, many of whom have for years been pushing for unlimited patentability. This situation calls for close attention and resolute action by national parliamentarians and concerned citizens.

---

<sup>2</sup><http://swpat.ffii.org/papers/eubsa-swpat0202/ipat0304/ipat0304.en.html>

<sup>3</sup><http://swpat.ffii.org/papers/euoparl0309/demands/euoparl-cpedu.en.html>