

Patent Movement in the European Union

<http://swpat.ffii.org/players/eu/index.en.html>

Workgroup

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An overview of the European patent establishment and its strongholds in various EU Institutions

Contents

The center of gravity of patent politics in Europe is in the European Patent Organisation, an inter-governmental organisation which runs the European Patent Office in Munich. Membership to the EPO is a pre-requisite to EU membership. The EPO has therefore more member states than the EU.

- **EU Patent Movement meeting top politicians in Ischia 2003/10/05-7¹**

The EU patent movement, led by Frits Bolkestein's DG Internal Market, met near Napoli (Naples) on October 5-7, discussing among themselves and with EU politicians from the Italian Presidency, the Commission and the Parliament subjects such as the limits of patentability. FFII/Eurolinux was excluded from participation, letters asking to be invited to panels not answered. Many panels had economic subjects, but the expertise came from patent lawyers only, not from economists.

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

¹<http://localhost/swpat/events/2003/isch10/index.en.html>

- **Patent Movement Activities in the name of the European Commission²**

The Directorate General for the Internal Market of the European Commission is completely under the tight control of the patent movement, especially its british section. The careers of the Industrial Property unit cadres are confined to the patent establishment. They would take a personal risk if they deviated from the very narrow ideology generated by decade-long organisational in-breeding within the patent institutions. Moreover, the European Commission needs (or believes that it needs) the EPO's support in order to carry out its ambitious plans of installing a Community Patent and thereby transferring power from Munich to Brussels. It has been buying this support by offering to give the EPO a carte blanche for software patents. This policy of the DGIM makes some people in DG Infosoc and other Directorates unhappy, but these people have so far not formed a serious counter-weight.

- **Influencing the EU Council³**

Collect and Provide Information on who makes the policies of the Council on patents and information infrastructure issues and how to best contact these people.

- **European Parliament and Software Patents⁴**

The European Parliament has less rights than a national parliament. Most importantly, it cannot itself propose legislation and it has only a negative voting power that again cannot block all EU legislation projects. However it has the right to block the CEC/BSA software patentability directive proposal, and it has used this right in September 2003.

²<http://localhost/swpat/players/cec/index.fr.html>

³<http://localhost/swpat/players/consilium/index.en.html>

⁴<http://localhost/swpat/players/europarl/index.en.html>

- **European Patent Office: High Above Legality⁵**

The European Patent Office finances itself by fees from the patents which it grants. It is free to use a certain percentage of these fees. Since the 1980s the EPO has illegally lowered the standards of technicity, novelty, non-obviousness and industrial applicability and abolished examination quality safeguards so as to increase the number of granted patents by more than 10% and the license tax on the industry by 26% per year. As an international organisation, the EPO is not subject to criminal law or taxation. The local police's power ends at the gates of the EPO. High EPO officials have inflicted corporal injury on their employees and then escaped legal consequences by their right to immunity. The work climate within the EPO is very bad, leading to several suicides per year. The quality of examination reached a relative high in the 80s but has after that been deteriorating, partly because the EPO had to hire too many people too quickly for too low wages. Examiners who reject patents load more work on themselves without getting more pay. Examiners are treated by the EPO management as a kind of obstacle to the corporate goal of earning even more patent revenues. The high-level employees of the EPO owe their jobs to political pressures from within national patent administrations and do not understand the daily work of the office. The EPO has its own jurisdictional arm, consisting of people whose career is controlled by the EPO's management, which again is strongly influenced by industry patent lawyers (on the Standing Advisory Committee (SA-CEPO)) and by the Office's internal climate. The national organs that are supposed to supervise the EPO are all part of the same closed circle, thus guaranteeing the EPO management enjoys feudal powers beyond constitutional legality, and that whatever they decide is propagated to the national administrations and lawcourts.

- **European Union of Industrial Property Professionals⁶**

Die UNION tagte im Dezember 1997 im Europäischen Patentamt zum Thema Patentierbarkeit von Computerprogrammen. Dabei forderten die meisten Redner eine generelle Patentierbarkeit von Computerprogrammen. Hierzu wurde auch ein Tabungsband und eine Resolution verabschiedet.

⁵<http://localhost/swpat/players/epo/index.en.html>

⁶<http://localhost/swpat/players/union/index.en.html>