

Janelly Fourtou MEP and Software Patents

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

Workgroup

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Janelly Fourtou, member of the European Parliament, French Conservative, has actively promoted software and business method patents in Europe, while pretending that she was “only restating the current law”. Fourtou in particular used every opportunity to push for legalisation of program claims (e.g. “a program, characterised by that upon loading into memory some computing process is executed”), which the European Commission had suggested not to allow. Jean-René Fourtou, husband of Janelly, former top manager of Aventis (pharma), is currently the CEO of Vivendi Universal. Vivendi is involved in cooperation negotiations with Microsoft. In 2002/12 J-R became the head of the International Chamber of Commerce (ICC), an organisation with a very active patent arm (IP Commission) which is lobbying for expansion of the patent system worldwide. In 2003, Fourtou became the rapporteur of a new IP enforcement directive, which, if enacted according to Fourtou’s proposal, may allow the Fourtou family to earn many thousands of EUR by suing people, either on the grounds of patents or copyright. This directive proposal is once again based on documents from BSA and once again claims to be “only harmonising the status quo”. Fourtou finds the proposed measures still not draconian enough.

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Mr Fourtou a été nommé en décembre 2002 président de la chambre internationale du commerce (ICC - International Chamber of Commerce). Cette organisation pousse très fort pour le système des brevets et nie catégoriquement toute relation entre la

difficulté pour les pays africains à accéder aux médicaments et les brevets protégeants ces médicaments.

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- **IFPI/McCarthy/Fourtou campaign for IP Enforcement successful¹**
- **EU IP Enforcement Directive Proposal COM (2003) 46(01)²**

The European Commission has proposed a directive which gives owners of copyrights, patents and all other kinds of exclusion rights greater powers to persecute infringers. The directive is championed in the European Parliament by MEP Janelly Fourtou (wife of Vivendi boss) and energetically supported by MEP Arlene McCarthy and others. Concerns have been raised by civil liberty groups that the proposal, by granting far-reaching powers to exclusion right titularies and neglecting civil rights and public concerns, may create various perverse effects.

- **USCIB: Fourtou Chairman of ICC³**

Jean-René Fourtou of Vivendi Universal elected ICC Chairman. ... As WTO officials meet to discuss drug patents and health crises in poor countries, ICC says inadequate financing and poor infrastructure, not the patent system, are the main culprit.

- **International Chamber of Commerce (ICC) and Software Patents⁴**

ICC's "Intellectual Property Committee", consisting of 240 corporate "IP professionals" from around the world, headed by Urho Ilmonen, Vice-President Legal of Nokia Mobile Phones Ltd, has vigorously defended the interests of the patent community in Europe. Their letters and statements are characterised by "strong belief" in the beneficiality of patents and disregard for the opinions not only of most ICC member companies but also of national member organisations such as the German Chamber of Commerce, which has pronounced itself against software patents and against the directive proposal.

¹<http://aful.org/wws/arc/patents/2003-06/msg00023.html>

²<http://www.ffii.org/proj/euid/index.en.html>

³<http://www.uscib.org/index.asp?documentID=1894>

⁴<http://swpat.ffii.org/players/icc/index.en.html>

- **European Parliament and Software Patents⁵**

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. Within the European Parliament, the Legal Affairs Committee (JURI) is in charge, its rapporteur being Arlene McCarthy, a british labor MEP. McCarthy has so far shown herself very unwilling to consider any arguments other than those coming from CEC and EPO. She has published a few papers that look as if ghostwritten bey CEC/EPO and has proposed to conduct a hearing where only the EPO lobby is heard. Due to pressure from other MEPs, some critical voices were also invited. The Committees for Inudstry (rapporteur Van Gorsel) and Culture (rapporteur Rocard) will give an opinion on the matter. General Directorate IV has commissioned a study from the University of Amsterdam which was fairly critical, as have quite a few MEPs. But since JURI is in charge, there is a real danger that lawyer thinking (delving into textual grammar, worshipping court authorities and caselaw, not thinking about laws as means to an end, favoring measures that create employment for lawyers) will prevail over considerations of public interest.

⁵<http://swpat.ffii.org/players/euoparl/index.en.html>

- **Arlene McCarthy MEP and Software Patents**⁶

British Member of the European Parliament, Labor/PSE, appointed by the Europarl Committee for Legal Affairs and Internal Market (JURI) in 2002/03 to report on the software patentability directive. In June 2002 Arlene McCarthy published a short report which aggressively promoted the agenda of the European Patent Office (EPO). The paper charged the patent critics of having provided only invalid arguments, but failed to quote or refute any of these arguments. Meanwhile various people from the EPO and patent lobby were in contact with McCarthy and boasted that their viewpoint would prevail and the discussion would soon be over. A hearing arranged by McCarthy and the europarl webspace dedicated to the hearing both offered minimal room for critical views. Arlene McCarthy's draft report of 2003/02/19, her explanatory note of 2003/05/03 and her refusal to accept any amendments which limit patentability or patent enforceability in any way show complete dedication to the interests of patent owners. While staying away from all informed discussions and conferences on software patent questions, McCarthy has actively reaching out to the media in order to present herself as a victim of a "dishonest and destructive misinformation campaign" who is sincerely trying to limit patentability.

⁶<http://swpat.ffii.org/players/amccarthy/index.en.html>