

Dr. Klaus-J. Melullis and Software Patents

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

Workgroup

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Presiding Judge at the patent senate of the Bundesgerichtshof (BGH, Federal Court), lawyer by education, later became known as software patentability theoretician, seeking to bring BGH closer to the EPO's line of making software patentable, but showing a certain uneasiness about the consequences, warning that only the technical (implementational) aspects should be patented and not the concepts and functionalities. In november 2000, Melullis expressed himself publicly against the plans to remove the patentability exception. In 2001 Melullis became the presiding judge of the BGH patent senate. In 2002, after public exchanges of views with Swen Kiesewetter-Köbinger, Reimar König and other critical patent law scholars, Melullis published a series of articles and memorandums which criticise the EPO's approach and the European Commission's directive proposal for deviating from what is permissible under Art 52 EPC and sticking to inconclusive legalistic reasoning instead of attempting a fair assessment of the interests at stake.

Contents

- **Mellulis (BGH) 1998: Zur Patentierbarkeit von Programmen fuer DV-Anlagen¹**

BGH-Richter Mellulis hält es für nötig, die vorhandenen Gesetze anders auszulegen, um der neuen Bedeutung der Softwareindustrie Rechnung zu tragen.

¹<http://swpat.ffii.org/papers/grur-mellu98/index.de.html>

- **Melullis 2002: Zur Sonderrechtsfähigkeit von Computerprogrammen²**

The presiding judge of the Patent Senate of the Federal Court of Justice, Dr. Klaus Melullis, analyses the legal and political situation concerning software patents and concludes that the European Commission's directive proposal "with its by-and-large affirmation of software patentability does not fit into the system of the EPC", and that the legislator has so far failed to assess the concerned interests and to clarify the basis of his decision.

- **Gesetzeswidrige Wirtschaftspolitik des BGH-Patentsenates³**

Patent Senate of the German Federal Court

²<http://swpat.ffii.org/papers/melullis02/index.de.html>

³<http://swpat.ffii.org/players/bgh/index.de.html>