

SYSTEM COMPUTER-IMPLEMENTED INVENTIONS REMAIN PATENTABLE IN EUROPE

On 6 July 2005, the European Parliament rejected the Directive on the Patentability of Computer Implemented Inventions, commonly known as the Software Patents Directive.

There have been some inaccurate or misinformed reports about the consequences of this action, and so we provide the following summary of the situation.

This rejection of the Directive means that the current practice of the European Patent Office (and followed by the UK Patent Office) of allowing patents for software inventions which provide a technical contribution is maintained.

However, there is still no formal harmonisation between the European Patent Office and all the national Patent Offices within the European Union. This allows the possibility of differences in practice between countries concerning the patentability of software.

Background information

The Directive was intended to address the uncertainty and inconsistency surrounding the patenting of software inventions in Europe, by bringing the practice of national patent offices broadly into line with the current practice of the European Patent Office.

However, opponents of software patents attempted to amend the Directive to a form which would have weakened protection for software inventions. Those in favour of software patents blocked the amendments. Both sides voted to reject the Directive.

The European Commission has made it clear that it will not submit new legislation on the subject.

Eric Potter Clarkson has substantial experience and expertise in the drafting and prosecution of UK and European patent applications for software inventions.

If you require any advice or assistance on this case, please to contact Nicholas Fox-Male (nfox@eric-potter.com) or Ray Charig (rcharig@eric-potter.com).

The information in this Newsletter was correct at the date of release. More up to date information is available by contacting Eric Potter Clarkson. All comments contained here are of a general nature and full professional advice should be sought on any specific problem.

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