

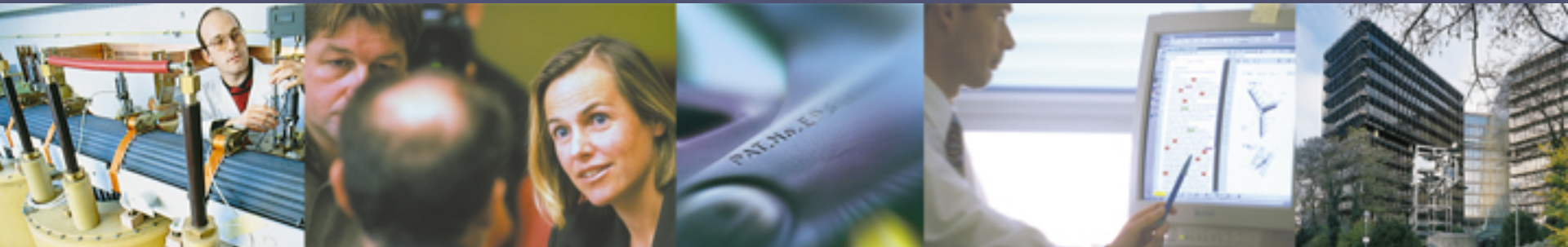


European Patent
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Conference on Patent Policy Making

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The role and function of the EPO

- European Patent Office, the executive branch of the European Patent Organisation
- implementing the European Patent Convention
- giving effect to the case law of the EPO Boards of Appeal
- overriding principle: patents stimulate innovation and economy
- giving effect to the decisions of the political leadership (e.g. directive on protection of inventions in biotechnology)



EPO practice in CII (Computer-Implemented Inventions)

- no patents are granted for business, economic, mathematical, aesthetic or similar subject-matter, regardless of how this subject-matter is implemented, e.g. in SW (Article 52(2) and (3) EPC)
- no patents are granted for subject-matter that does not solve a technical problem



EPO practice in CII (Computer-Implemented Inventions), cont.

- experience shows that what is "technical" cannot be defined by a simple, workable and commonly accepted definition (e.g. recent UK Patent Office study, proposed amendments to the directive)
- positive and negative examples of "technical" work better
- case law can help create a perception of what is "technical" and what not in the sense of the EPC



The recent EPO case law in CII

- IBM (T 1173/97)
- Pension Benefit Systems Partnership (T 931/95)
- COMVIK (T 641/00)
- Hitachi (T 258/03)



Concerns expressed in public debate and the EPO view

- "EPO practice in CII is drifting towards USPTO practice"
- "Patents in CII are detrimental to SME's"
- "Patents in CII are in conflict with the Open Source programming paradigm"
- "The terms "technical", "technical effect", "technical contribution" need an accurate definition"



Some facts and figures on CII

- the number of no-searches in G06F6 (electronic data processing) and related fields rose abruptly in 2001 and 2002 and since then has stabilized
- as an example, in the field of computer-implemented applications, between 1991 and 2004, there have been 36500 patent applications, 5100 grants, 560 refusals and 16700 withdrawals



EPO: a controllable, accountable Organisation

- governed by a body where all 30 member states are equally represented
- after publication of application, full transparency
- after publication of application, multiple intervention mechanisms available (submissions of third parties, oral proceedings, opposition, appeal)
- final say on infringement and validity remains with national courts
- committed to European patent law standards, and to decisions of the European political leadership