

Public letter of 5 Swedish CEOs against European Parliament's Amendments

<http://swpat.ffii.org/lisri/04/sver0128/index.en.html>

Workgroup

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CEOs of 5 of the largest patenting companies in Sweden falsely accuse the European Parliament of having voted to make software-controlled industrial production processes (e.g. robots of ABB) unpatentable. Based on this false accusation, they demand support for the position of the European Commission and European Council, which is to legalise 30000 patents on pure software and business methods which have been granted by the European Patent Office in recent years against the letter and spirit of the existing law. The CEOs moreover make it clear that "harmonisation and clarification": they want either a full codification of unlimited patentability according to the EPO doctrines or no directive at all. Similar letters have been signed by prominent industry executives and sent to heads of government. This is the first time that they are directly going public with such a letter. The letter comes after a statement by Sweden's Justice Minister Thomas Bodström in support

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*<http://gibuskro.lautre.net/>

1 The Text

Undermined patent protection threatens Swedish industry.

The european parliament wants to change the patent rules. If the proposals are adopted, patent protection will be substantially reduced for innovations that use computer programs. The proposals does not only strike [inflict injury on] pure software companies, but also traditional engineering industry, producers of consumer goods [konsumentvaruföretag] and the telecom sector. This is what five top CEOs writes and they encourage swedish politicians to study the proposals.

Signatories:

- Sten Jakobsson, VD, ABB Sverige
- Ulf Jönsson, VD, Biacore International AB
- Per-Arne Sandström, vice VD, Ericsson AB
- Hasse Johansson, Group Vice President Head of Research and Development Scania AB
- Lars-Göran Rosengren, VD Volvo Technology AB

Technical innovations are one of the pillars of the swedish prosperity. Incentives to invest in such innovations has been created through an effective and balanced patent protection.

There is a work in progress within the EU to harmonize the rules for patents on computer related inventions. The european parliament has discussed the commission proposal during fall 2003 and has demanded substantial changes.

If these changes are adopted, the possibilities to patentprotect (protect with patents) innovations that use computer programs are greatly reduced/will have worse conditions. Already granted patents on computer related inventions held by swedish companies can be questioned too.

This will not only strike [inflict injury on] pure software companies, but also e.g. traditional engineering industry, producers of consumer goods [konsumentvaruföretag] and the telecom sector.

The innovative products that makes swedish industry competitive are today a combination of traditional engineering art, modern design and advanced computer technology.

Computer controlled washing machines, cookers and microwave ovens are some examples of products that swedish companies successfully develop and sell all over the world.

Even more advanced are those systems in cars and lorries where computer programs controles the electronics in the engine, the breaks, the security systems etc.

Industrial robots, power transmission systems and processes within the manufacturing industry are controlled by means of computer programs. Yet another example is

the advanced systems that control and define the functions and the services in our telecommunication products, everything from cellular phones to switchboards and other systems that make sure communication works.

Common for all these areas is that the electronics and the functions that are controlled by computer programs to a greater and greater extent has become a central part of the unique properties of the product.

Without a strong patent protection for such computer related inventions also in the future, innovations made in Sweden run the risk of being copied sold on the European market by others than the companies and inventors that has invested time, money and mental effort to bring forth [produce] those innovations.

Such a development would have a devastating effect on investment climate in Sweden and on growth in the Swedish companies.

What are the reasons for our concern? Well, within the EU there is a work in progress to harmonize patent protection for computer related inventions. EPO has already granted more than 30.000 patents on such inventions - patents that underlie the business deals [affärsupplägg] and licencing strategies of the companies.

Contrary to what is said in the debate, the objective of the original proposal was not to extend the patent possibilities to - as in the USA - allow patents on e.g. pure business methods.

On the contrary, the commission proposal is designed to avoid such a development by laying down that present practice in Europe shall apply even in the future.

The industry in Sweden and in the rest of Europe has, with some objections, welcomed the commission proposal as a step in the right direction. Also member states in the council has adopted this line.

But this unanimity has radically been changed by the decision of the parliament. Almost all of the proposals of the parliament are completely unacceptable for the industry. The proposals would make impossible patent protection for a number of computer related inventions that can be protected today and/or make such patents meaningless.

Within certain sectors like telecom industry patent protection would be made impossible for almost all innovations.

This is unfortunately only the latest example in a row of political opinions that signifies [markerar] an unfortunate development in the general political debate about modern innovation and its patent protection. The decision shows with all clarity that many are ignorant and has misunderstood the subject.

The complexity of the question seems to have led to a simplification and polarisation, where so called software patents in general has been depicted as something dangerous and anti competitive. One contribution to this development is that the debate has been dominated by a few loud-voiced players that are against patent protection all together.

It is decisive for us and our companies that Swedish politicians takes the question seriously and work with all power to preserve and improve the present legislation on patent protection for computer related inventions. This to secure that the innovations and investments of the Swedish industry also in the future will be encircled by a strong and clear patent protection.

If this incentive does not exist, we risk to lose the strength of Sweden as a nation of knowledge, driven by innovative entrepreneurs.

Therefore, we call upon Swedish politicians to

- Study what the commission proposal and the parliament counter-proposal means and how they would influence Swedish industry. We would be happy to meet you to give a nuanced picture of what consequences “software patents” has for our companies.
- Work against that the question is forced through EU with a compromise solution as a result. We are better off without a directive than with a bad one!

—Contact your colleagues in the other European countries and make sure they understand the seriousness of the situation for European industry and in the end for Europe.—Encourage your party representatives to work with the question in the parliament as the critical trade and industry issue it is.)

2 Annotated Links

- **5 Swedish CEOs 2004-01-26 FUD letter in Dagens Industri**¹

CEOs of 5 of the largest patenting companies in Sweden falsely accuse the European Parliament of having voted to make software-controlled industrial production processes (e.g. robots of ABB) unpatentable. Based on this false accusation, they demand support for the position of the European Commission and European Council, which is to legalise 30000 patents on pure software and business methods which have been granted by the European Patent Office in recent years against the letter and spirit of the existing law. The CEOs moreover make it clear that “harmonisation and clarification”: they want either a full codification of unlimited patentability according to the EPO doctrines or no directive at all.

see also

- **Christian Engström on 5 CEOs**²
- **Swedish version**³

¹<http://di.se/Scripts/debatt/showDebatt.asp?stat=1&ID=2004%5C01%5C26%5C97275>

²http://w1.970.telia.com/~u97015790/publik/html/ang_swp_en.html

³http://w1.970.telia.com/~u97015790/publik/html/ang_swp.html

- **Swedish Government Fighting for Software Patents⁴**

In a response to a parliamentary question in december 2003, Sweden's minister of justice Thomas Bodström endorsed the approach of the European Patent Office and the European Commission on software patents and criticised the European Parliament for amending the directive with the effect of narrowing the scope of patentability and making already-granted patents invalid. Bodström announced that his government will push for reversal of these amendments. His comments provoked applause from the patent movement (also called the "technostructure" in Sweden) and criticism from some software associations and companies.

- **CEOs of big telcos sign letter against Europarl Amendments⁵**

The chief executive officers of Alcatel, Ericsson, Nokia and Siemens have signed a letter to the European Commission and the European Council which complains about the European Parliament's amendments to the proposed software patent directive, saying that these will effectively remove the value of most of the patents of their companies and thereby harm the competitiveness of Europe's industry and violate the TRIPs treaty. FFII points out that the Directive indeed threatens the interests of the patent departments of such companies, but not of the companies themselves: The letter is characterised by untruthful dogmatic assertions which say much about the thinking of patent departments and little about the interests of their companies, many of whose employees, especially software developers, support the positions of FFII.

⁴<http://localhost/swpat/lisri/04/sver0116/index.en.html>

⁵<http://localhost/swpat/lisri/03/telcos1107/index.en.html>