

Aug 27 Demonstrations against EU Software Patent Plans

<http://swpat.ffii.org/journal/03/demo0819/index.en.html>

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The Proposal for a software patent directive, which will be submitted to the European Parliament for plenary debate and subsequent decision on September 1st, is giving rise to another wave of protests. Various groups in Belgium and elsewhere are mobilising for a rally in Brussels on August 27th and are calling on web administrators to temporarily block their web sites.

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1 details

The Proposal for a software patent directive, which will be submitted to the European Parliament for decision on September 1st, is giving rise to another wave of protests. The

Eurolinux Alliance is calling for participation in a rally in Brussels¹ on August 27th, comprising a street performance at 12.00 beside the European Parliament and a conference at 14.00 in the European Parliament, and for accompanying online demonstrations².

“The directive proposal as prepared by Arlene McCarthy MEP would impose US-style unlimited patentability of algorithms and business methods such as Amazon One Click Shopping” says Benjamin Henrion, who is heading a local organisational team with the backing of a coalition of organisations representing 2000 software companies and 160,000 individuals, mostly software professionals.

The proposal would, according to the organisers, “legalise thousands of logic patents that have been granted by the European Patent Office against the letter and spirit of the law, making it impossible for national courts to continue to revoke these patents³”. This would protect the interests of patent holders and patent lawyers, i.e. the people whom the Commission called “an economic majority”, discarding the evidence against software patents provided by 94% of the respondents to its consultation on software patents⁴.

The program in Brussels is approximately as follows, more details will be supplied soon:

¹<http://wiki.ael.be/index.php/BigDemo27aug>

²<http://swpat.ffii.org/group/demo/index.en.html>

³<http://swpat.ffii.org/papers/bpatg17-suche02/index.de.html>

⁴<http://swpat.ffii.org/papers/eukonsult00/index.en.html>

When	Where	Subject
12.00-14.00	Place du Luxembourg	Performance <ul style="list-style-type: none"> • Pantomime • Balloons • Speeches
14.00-16.00	EP A1E1	Conference Hosts <ul style="list-style-type: none"> • Bart Staes (MEP, NL, VERD) • Johanna Boogerd (MEP, BE, ELDR) • Heidi Rühle (MEP, DE, VERD) Speakers <p>Henk Barendregt: NL, Chair Foundation of Mathematics and Computer Science Nijmegen University Patentability of Software: a perspective from a computer science⁵</p> <p>Reinier Bakels: NL, University of Amsterdam, Institute for Information Law⁶ “The JURI Proposal: Clarification by Confusion?⁷”</p> <p>Marco Schulze: CEO, Nightlabs GmbH⁸ Ticketing System Patents in Europe</p> <p>Hartmut Pilch: DE, president of FFII “Why Amazon One Click Shopping is Patentable under the Proposed EU Directive⁹”</p> <p>[...]</p>

“In May a two-day software patent conference¹⁰ in and near the European Parliament attracted 200 participants. Leaders of the scientific communities and software business world took the directive proposal apart and condemned it in every respect. Yet in June the EP Legal Affairs Commission endorsed this proposal with further amendments that make it even worse”, explains Henrion. “More and more people are now seeing this very clearly. We expect even more participants this time.”

“The vast majority of our supporters will certainly not be on Luxemburg Square on August 27th. Those who can not come to Brussels should demonstrate online¹¹, using their web servers or other internet services”, says Hartmut Pilch, president of FFII. “We have proposed a series of ways in which this can be done. There is certainly a way for everyone. Better make access to your webpage a bit more difficult now for one or two days than lose your freedom of publication for the next ten years. Note that if the McCarthy report is approved without drastic amendments, copyright and freedom of publication will become worthless. Programmers and Internet Service Providers will be regularly sued for patent infringement. The deadline for democratic scrutiny is September 1st. August 27th is your last chance to make your voice heard in the European patent decisionmaking process.”

2 Annotated Links

- **AEL Big Demo 27 aug Wiki**¹²

Hints on how to participate in the demo, needed equipment on site, who provides what, etc

- **Online Demonstration Against Software Patents**¹³

We can show our concern by physical presence as well as by more or less gently blocking access to webpages in a concerted manner at certain times.

¹⁰<http://swpat.ffii.org/events/2003/euoparl/05/index.en.html>

¹¹<http://swpat.ffii.org/group/demo/index.en.html>

¹²<http://wiki.ael.be/index.php/BigDemo27aug>

¹³<http://swpat.ffii.org/group/demo/index.en.html>

- **2003/08 Letter to Software Creators and Users**¹⁴

The European Parliament will, in its plenary session on September 1st, decide on a directive proposal which ensures that algorithms and business methods like Amazon One Click Shopping become patentable inventions in Europe. This proposal has the backing of about half of the parliament. Please help us make sure that it will be rejected. Here are some things to do.

- **Software Patent Events Wednesday 2003/08/27 12.00-16.00**¹⁵

Letter to Members of the European Parliament

- **2003/08/25-9 BXL: Software Patent Directive Amendments**¹⁶

Members of the European Parliament are coming back to work on Monday August 25th. It is the last week before the vote on the Software Patent Directive Proposal. We are organising a conference and street rally Wednesday the 27th. Some of our friends will moreover be staying in the parliament for several days. Time to work decide on submission of amendments to the software patent directive proposal is running out. FFII has proposed one set of amendments that stick as closely as possible to the original proposal while debugging and somewhat simplifying it. An alternative small set of amendments would “cut the crap” and rewrite the directive from scratch. We present and explain the possible approaches.

- **European Parliament Rejects Attempt to Rush Vote on Software Patent Directive**¹⁷

The European Parliament has postponed the vote on the software patent directive back to the original date of 1st of September, thereby rejecting initially successful efforts of its rapporteur Arlene McCarthy (UK Labour MEP of Manchester) and her supporters to rush to vote on June 30th, a mere twelve days after publication of the highly controversial report and ten days after the unexpected change of schedule.

¹⁴<http://swpat.ffii.org/letters/parl038/index.en.html>

¹⁵<http://swpat.ffii.org/letters/meps038/index.en.html>

¹⁶<http://swpat.ffii.org/events/2003/europarl/08/index.en.html>

¹⁷<http://swpat.ffii.org/journal/03/plen0626/index.en.html>

- **JURI votes for Fake Limits on Patentability**¹⁸

The European Parliament's Committee for Legal Affairs and the Internal Market (JURI) voted on tuesday morning about a list of proposed amendments to the planned software patent directive. It was the third and last in a series of committee votes, whose results will be presented to the plenary in early september. The other two commissions (CULT, ITRE) had opted to more or less clearly exclude software patents. The JURI rapporteur Arlene McCarthy MEP (UK socialist) also claimed to be aiming for a "restrictive harmonisation of the status quo" and "exclusion of software as such, algorithms and business methods from patentability". Yet McCarthy presented a voting list to fellow MEPs which, upon closer look, turns ideas like "Amazon One-Click Shopping" into patentable inventions. McCarthy and her followers rejected all amendment proposals that try to define central terms such as "technical" or "invention", while supporting some proposals which reinforce the patentability of software, e.g. by making publication of software a direct patent infringement, by stating that "computer-implemented inventions by their very nature belong to a field of technology", or by inserting new economic rationales ("self-evident" need for Europeans to rely on "patent protection" in view of "the present trend for traditional manufacturing industry to shift their operations to low-cost economies outside the European Union") into the recitals. Most of McCarthy's proposals found a conservative-socialist 2/3 majority (20 of 30 MEPs), whereas most of the proposals from the other committees (CULT = Culture, ITRE = Industry) were rejected. Study reports commissioned by the Parliament and other EU institutions were disregarded or misquoted, as some of their authors point out (see below). A few socialists and conservatives voted together with Greens and Left in favor of real limits on patentability (such as the CULT opinion, based on traditional definitions, that "data processing is not a field of technology" and that technical invention is about "use of controllable forces of nature"), but they were overruled by the two largest blocks. Most MEPs simply followed the voting lists of their "patent experts", such as Arlene McCarthy (UK) for the Socialists (PSE) and shadow rapporteur Dr. Joachim Wuermeling (DE) for the Conservatives (EPP). Both McCarthy and Wuermeling have closely followed the advice of the directive proponents from the European Patent Office (EPO) and the European Commission's Industrial Property Unit (CEC-Indprop, represented by former UK Patent Office employee Anthony Howard) and declined all offers of dialog with software professionals and academia ever since they were nominated rapporteurs in May 2002.

¹⁸<http://swpat.ffii.org/journal/03/juri0617/index.en.html>

- **Why Amazon One Click Shopping is Patentable under the Proposed EU Directive**¹⁹

According to the European Commission (CEC)'s Directive Proposal COM(2002)92 for "Patentability of Computer-Implemented Inventions" and the revised version approved by the European Parliament's Committee for Legal Affairs and the Internal Market (JURI), algorithms and business methods such as Amazon One Click Shopping are without doubt patentable subject matter. This is because

1. Any "computer-implemented" innovation is in principle considered to be a patentable "invention".
2. The additional requirement of "technical contribution in the inventive step" does not mean what most people think it means.
3. The directive proposal explicitly aims to codify the practise of the European Patent Office (EPO). The EPO has already granted thousands of patents on algorithms and business methods similar to Amazon One Click Shopping.
4. CEC and JURI have built in further loopholes so that, even if some provisions are amended by the European Parliament, unlimited patentability remains assured.

- **Call for Action**²⁰

The European Commission's proposal for the patentability of software innovations requires a clear response from the European Parliament, the member state governments and other political players. Here is what we think should be done.

- **Eurolinux Petition for a Software Patent Free Europe**²¹

¹⁹<http://swpat.ffii.org/papers/eubsa-swpat0202/tech/index.en.html>

²⁰<http://swpat.ffii.org/papers/eubsa-swpat0202/demands/index.en.html>

²¹<http://petition.eurolinux.org/>

- **FFII: Software Patents in Europe**²²

For the last few years the European Patent Office (EPO) has, contrary to the letter and spirit of the existing law, granted more than 30000 patents on rules of organisation and calculation claimed in terms of general-purpose computing equipment, called “programs for computers” in the law of 1973 and “computer-implemented inventions” in EPO Newspeak since 2000. Europe’s patent movement is pressing to legitimate this practise by writing a new law. Although the patent movement has lost major battles in November 2000 and September 2003, Europe’s programmers and citizens are still facing considerable risks. Here you find the basic documentation, starting from the latest news and a short overview.

3 contact

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4 Permanent URL of this Press Release

<http://swpat.ffi.org/journal/03/demo0819/index.en.html>

²²<http://swpat.ffi.org/index.en.html>

²³<http://bh.udev.org/>