

AMENDMENT 69

tabled by Manuel Medina Ortega, on behalf of the PSE Group

REPORT by Arlene McCarthy
 Patentability of computer-implemented inventions

A5-0238/2003

Proposal for a directive
 (COM(2002) 92 – C5-0082/2002 – 2002/0047(COD))

 Commission proposal

 Amendments by Parliament

Amendment 69
 Article 2, point (b)

(b) “technical contribution” means a contribution to the state of the art in a technical field which is not obvious to a person skilled in the art.

(b) “technical contribution” means a contribution to the state of the art in a technical field which is not obvious to a person skilled in the art. ***The use of natural forces to control physical effects beyond the digital representation of information belongs to a technical field. The processing, handling, and presentation of information do not belong to a technical field, even where technical devices are employed for such purposes.***

Justification

There is general agreement on the need to distinguish computer-implemented inventions that can be patented from those which cannot, because they do not belong to a technical field. The reference to natural forces is not sufficient in itself; the crucial issue is the nature of the effects for which those natural forces are used. The use of physical effects in computers to manipulate information must not serve to justify the patentability of algorithms or interfaces.

Or. en

AMENDMENT 70

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Commission proposal

Amendments by Parliament

Amendment 70
Article 4, paragraph 3a (new)

3a. In determining whether a given computer-implemented invention makes a technical contribution, the following test shall be used: whether it constitutes a new teaching on cause-effect relations in the use of controllable forces of natures and has an industrial application in the strict sense of the expression, in terms of both method and result.

Justification

The patentability of computer-implemented inventions must comply with the principles of patent law.

Or. en

AMENDMENT 71

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Commission proposal

Amendments by Parliament

Amendment 71
Article 7

The Commission shall monitor the impact of computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, **including** electronic commerce.

The Commission shall monitor the impact of computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, **especially small and medium-sized enterprises and the open source community, and** electronic commerce.

The Commission shall examine the question of how to make patent protection more readily accessible to small and medium-sized enterprises and ways of assisting them with the costs of obtaining and enforcing patents, in particular through the creation of a defence fund and the introduction of special rules on legal costs.

It shall report on its findings to the European Parliament and the Council and present appropriate proposals for legislation without delay.

*Justification**Self-explanatory.*

Or. en