

18 September 2003

A5-0238/72

**AMENDMENT 72**

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))

Text proposed by the Commission

Amendment by Parliament

Amendment 72

Article 5, paragraph 1 a (new)

***1a. Member States shall ensure that patent claims granted in respect of computer-implemented inventions include only the technical contribution which justifies the patent claim. A patent claim to a computer program, either on its own or on a carrier, shall not be allowed.***

Or. de

*Justification*

*A patent claim to a computer program as such used in connection with patent-protected computer-implemented inventions, or to its recording on a carrier, is not permissible. A 'text claim' to computer programs in source or binary code would increase legal uncertainty, as simply possessing an expression or a carrier with a protected program would mean infringing patent law. The availability of a program in text form may be seen as a contribution to the disclosure requirement in respect of functionalities of computer programs for which patent claims are granted.*

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Patentability of computer-implemented inventions

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

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Amendment by Parliament

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Amendment 73  
Recital 11 a (new)

***(11a) Computer-implemented inventions are only patentable if they may be considered to belong to a field of technology and, in addition, are new, involve an inventive step and are susceptible of industrial application.***

Or. de

*Justification*

*In order to create legal certainty, the patent law principles of novelty, inventive step and industrial application (Articles 54, 56 and 57 of the EPC) should be incorporated in the recitals.*