

Unternehmer gegen Softwarepatentierung



PRESS RELEASE

German automation and software manufacturers join forces against software patenting

Hamburg / Brussels, February 15th 2007 – The German business alliance against software patents, *patentfrei.de*, gains support by OSADL and *patentverein.de*, two organisations from the field of automation. *patentfrei.de* challenges the German Minister of Justice, Brigitte Zypries, to cancel her support for the proposed European Patent Litigation Agreement (EPLA). The EPLA contains considerable loopholes at the expense of small and medium-sized enterprises, and is feared to rubber-stamp the infamous software patenting practice of the European Patent Organisation.

Patentfrei.de's request for patent-free software now also gets explicit support from the automation business. Beyond the more than 650 small and medium enterprises which support patentfrei.de today, the Open Source Automation Development Lab (OSADL) join forces against software patents. OSADL is an association of Entrepreneurs for the promotion and applied support of Open-Source-Software in the field of machine and system control.

OSADL's CEO Dr. Carsten Emde stresses the suppliers' requirement to free their customers from any third parties' claims. Regarding "classic", internationally established patent claims, e.g. in the field of manufacturing technology, such a search is complex but practicable. In contrary a reliable software patent audit within reasonable cost limits is simply infeasible. As a certain software concept can occur in any type of program independent from the usage case, software patents potentially inhibit complete mankind from computer usage. „Therefore, the OSADL requests the complete absence of patents in the area of software. This is necessary for the continued free development of software and especially Open Source software in the future“, says Emde.

In addition, the industry association *patentverein.de*, whose members operate in the field of engine/sensor/automation, supports patentfrei.de's demands for an effective exclusion of software patentability. As an initiative of SMEs, *patentverein.de* advocates patent quality and an SME-friendly patent environment. Dr. Heiner Flocke, president of *patentverein.de*, complains about the fact that 90% of all patents belong to only 10% of all applicants. This nuisance is even admitted by the patent office, nevertheless no action has been taken so far. SME innovators already suffer from abusive practices of the patent process in classical fields. „Legitimizing software patents, abstract and granted on base of a loose control by overloaded examiners, would multiply the attack options“, says Flocke. „Medium-sized businesses must be consulted on these central topics and there should be an independent jurisdiction on which they can rely. Those courts have to readjust the 'inventive step' standards as they are provided by law.“

It's those fundamental principles which patentfrei.de considers in danger through the EPLA plans. Johannes Sommer, Hamburg campaigner of the initiative: „In our opinion the German presidency's plans for a centralised Litigation System EPLA favours the interests of the big market players.“ By mixing the planned jurisdiction with the European Patent Organisation (EPO), the current draft also disregards fundamental democratic principles such as separation of powers and independence of judges. „It is not only the expected increase of costs which penalises SMEs. The foreseeable legitimization of software patents in the current EPLA scenario threatens the existence of small and medium enterprises“, Sommer warns. Even a just-released analysis of the Legal Service of the European Parliament tracked multiple collisions between the EPLA and the Community competence (*acquis communautaire*).

Regarding the EU Competition Council meeting scheduled on next Monday, patentfrei.de encourages Federal Minister of Justice Zypries to abandon her EPLA support. An European patent litigation court has to be developed within the *acquis communautaire* and outside EPO influence. A top priority for companies writing or using software is a real European regulation which once and for all prohibits software patents.

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Links:

Website of patentfrei.de / Unternehmer gegen Softwarepatentierung
(patentfrei.de / Entrepreneurs against software patents)

www.patentfrei.de

patentfrei.de's Joint Declaration against software patents

http://www.patentfrei.de/download/resources/patentfrei_joint_declaration.pdf (translation to English)

http://www.patentfrei.de/download/resources/patentfrei_Erklaerung_gegen_Softwarepatentierung.pdf

Website OSADL e.G.

www.osadl.org

Website patentverein.de e.V.

www.patentverein.de

Comprehensive quotes from Dr. Carsten Emde, OSADL e.G., and Dr. Heiner Flocke, patentverein.de e.V.

<http://patentfrei.de/index.php?fuseaction=about.main>

Interim Legal Opinion of the EU-Parliament Legal Service service on a possible conclusion of EPLA by the member states

http://www.ipeg.com/_UPLOAD%20BLOG/Interim%20Legal%20Opinions%20Legal%20Service%20EP%20Feb%201%202007.pdf

Open letter from patentfrei.de to German Federal Chancellor

http://www.patentfrei.de/download/resources/patentfrei_Merkel_16.01.2007.pdf

patentfrei.de's EPLA position paper

http://www.patentfrei.de/download/resources/patentfrei_EPLA_Positionspapier.pdf

patentfrei.de is an initiative of small and medium-sized German enterprises. It has been founded in 2004 to contravene the highly controversial software patent directive, which has eventually been voted down by EU Parliament. More than 650 entrepreneurs, founders and CEOs of small and medium-sized businesses have signed patentfrei.de's „Joint Declaration“. In the spirit of this declaration, patentfrei.de continues to represent the small and medium-sized enterprises. Their biggest concern is not the protection **by** patents, but the protection **from** patents.

Official supporters of patentfrei.de are Bundesverband mittelständische Wirtschaft (BVMW), Berufsverband der Selbständigen in der Informatik (BvSI), Industrie-Fachverband Motor-Sensor-Automation (patentverein.de), and OpenSource Automation Development Lab (OSADL).

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Contact:

patentfrei.de / Unternehmer gegen Softwarepatentierung

www: www.patentfrei.de

c/o Sommer Communication
Inhaber Johannes Sommer
Kuhmühle 4, 22087 Hamburg

Initiator und V.i.S.d.P.: Dipl.-Phys. Johannes Sommer

Kuhmühle 4, 22087 Hamburg

Tel.: 040 / 411 67 97-0

Fax: 040 / 22 75 76 52

E-Mail: mail@patentfrei.de

patentfrei.de / Unternehmer gegen Softwarepatentierung
(patentfrei.de / Entrepreneurs Against Software Patents)

c/o Sommer Communication, Inh. J. Sommer, Kuhmühle 4, 22087 Hamburg

Initiator und V.i.S.d.P.: Dipl.-Phys. Johannes Sommer, Kuhmühle 4, 22087 Hamburg

Tel.: 040 / 411 67 97 - 0

Fax: 040 / 22 75 76 52

www.patentfrei.de mail@patentfrei.de