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Sunday, October 19^{th}, 2003

Mr Iain Coleman
MP for Hammersmith and Fulham
House of Commons
London
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Dear Mr Coleman,

I am writing to you to express my concern about the European Council's intentions to introduce software patents and to ask you to bring my concerns to the attention of Stephen Timms MP of the DTI.

I am a Systems Administrator at the Dept of Computing, Imperial College, London. My Department has to support the vast range of requirements generated by students, researchers, conferences and lecturers and the Systems Group is almost a research group itself. Much of the infrastructure software that is written by us could be the target of software patents. If the November 2002 draft is adopted unamended then companies like IBM (who hold thousands of software patents in the US) could cripple most of the research groups in my department.

Indeed, a quick search shows that the European Patent Office has granted several patents (DE4219726 and EP0747840, at least) that both cover work I was doing last week. The fact that these patents have been granted shows that, even if software patents were a good idea, the Patent Office is utterly incapable of judging the novelty of them.

Further to the practical difficulties involved, the facts do not support the introduction of software patents. None of the claimed benefits of patents actually hold for software.

Often patents are granted to allow inventors to recoup the startup capital needed to create a product, such as a new drug. But software doesn't have huge startup costs - at least no software that could be covered by a patent. Like writing a book, significant software can and still is produced with virtually no material costs.

The actual software implementation of any ideas are, of course, covered by existing copyright law.

In fact, experience from the US and Japan has shown that software patents are almost universally used in cross-licensing deals between large software firms to exclude small and startup companies who don't hold any patents the license in return.

In September of this year, the EU Parliament voted to tighten the language of the draft to include a definition of a 'technical' invention, to include a cause to allow software to interoperate and to allow 'program claims' (descriptions of patented software) to be discussed.

In short, this draft legislation is based on misunderstanding and the lobbying of a few special interest groups. Oh course, the ideal situation would be that software patents are dropped but it seems that this is now a lost course. The Parliament's amendments at least make a bad situation a little better.

Unfortunately, I understand that the European Parliament's (Sept 2003) very sensible amendments to this draft are due to be overturned at a meeting of the EU's Competitiveness Council of Ministers on the 10^{th} of November, and that this meeting is to be 'prepared' at a meeting of patent officials.

Setting aside this 'questionable' course of events (some might use the words 'undemocratic', 'immoral' or even 'criminal' in that sentence). I wish that Mr Stephen Timms MP be urged to press for the Council not to overrule the Parliament on this issue.

I hope that I have impressed on you that this issue, although obscure, is very important.

Yours sincerely

Adam Langley