

Software Innovation : an engineer point of view

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<http://petition.eurolinux.org/aalborg>



EuroLinux : Largest Software Innovator in Europe



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	EuroLinux	Microsoft
Users	Everyone	Everyone
Customers	500 000	
Members	120 000	
Consultants	7 000	
Researchers	500	55

Cambridge Research Lab.
Source: Microsoft Research Web Site

70% Open Source / Free Software
30 % Proprietary Software

Software Made by EuroLinux Members

- **OS:** Linux Mandrake, SuSE Linux
- **Database:** MySQL
- **Development:** Qt, KDevelop, Python
- **Productivity:** KOffice
- **Internet:** KMail, Konqueror
- **Security:** ssh, gpg, ipsec free s/wan
- **Multimedia:** Blender, mplayer, Gnomemeeting, vlc

3.2% EuroLinux software made in DK
(1.6% EU population)

Jens Axboe
Kai Harrekilde-Petersen
Niels Kristian Bech Jensen
Torben Mathiasen
Henrik Storner

EuroLinux = the European Software Giant we always wanted



EuroLinux believes in Copyright and Fair Competition

- Copyright-like protection of Software: software is protected, not ideas of software. Everyone is free to innovate from common ideas.
- Source code secrecy: provides a kind of industrial protection of the implementation of software ideas
- Interoperability principle: creates the ground for fair competition and open standards

**EuroLinux believes in copyright and
freedom to innovate**



Software Patents Destroy Software Innovation

URGENT

M. Bendtsen, since you believe that software can be legally patented in Europe, please read EP0895689 which you are likely infringing

Sorry, I do not know how to get a license

Sorry, now you read that, no insurance will protect you...



I received a letter from...

5/12/00: VirtualDub released, ASF support removed at request of Microsoft

Today I received a polite phone call from a fellow at Microsoft who works in the Windows Media group. He informed me that Microsoft has intellectual property rights on the ASF format and told me that, although I had reverse engineered it, the implementation was still illegal since it infringed on Microsoft patents. I have asked for the specific patent numbers, since I find patenting a file format a bit strange. At his request, and much to my own sadness, I have removed support for ASF in VirtualDub 1.3d, since I cannot risk a legal confrontation.

Software Patents destroy the Interoperability Principle
Legal Risk is Too High for Innovators to keep on Innovating
50.000 EU Patents held by US companies waiting to attack



80% Software Companies Against Software Patents

- DG-MKT 2001 (EU)
- DG Entreprise (EU)
- Académie des technologies 2001 (France)
- Oz 1998 (USA)
- UKPTO 2000 (UK)
- IPR-HELPDESK 2001 (EU)
- Fraunhofer 2001 (Germany)
- Commissariat au Plan 2002 (France)

80% Software Salesmen against Software Patents

80% Patent Salesmen in favour of Software Patents

***Consumers never taken into account
(except in DK where it is against)***



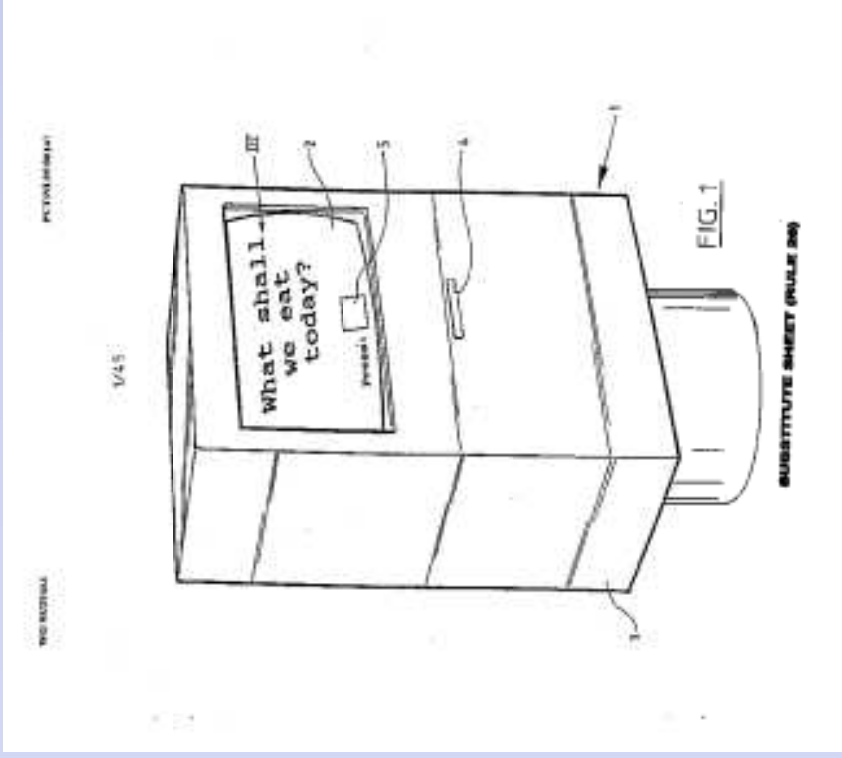
Economists: Software Patents Destroy Soft. Innovation

- **Waterson/Ireland 1998**
- **Tamai 1998**
- **Hunt 1999**
- **Kortum/Lerner 1999**
- **Bessen/Maskin 2000**
- **IPI 2000**
- **DG-MKT 2001**
- **IPR Helpdesk 2001**
- **Fraunhofer 2001**
- **Smets 2000**
- **Lévêque/Dupuis/Tardieu 2001**

**Legalizing Software Patents in Europe is incompatible with
the Rome Treaty**



Fixing the Software Patent System



PCT/NL95/00147

see also.

FR28160816

Improving the organisation of a factory can be enough to make better washing machines



The cost of software patents on the society

- Cost for society
 - Price increase > 1% à 30%
> 1,3 à 40 GEuro / an
 - Anticompetitive effect
 - Cultural effect
- Cost of typical public policy
 - Public patent fund
 - Improvement examination
0,5 à 4 GEuro / an
 - Subsidies

<http://swpat.ffii.org/stidi/pleji/>

Software Patents are Illegal in Europe

- Software innovation is not technical in the sense of Kolle (1977) or Benkard (1988)
- Not enforceable in case of trial (France 1975, Germany 2000)
- EPO decision on software patent subject matter incompatible with Art. 22 EPC and inconsistent with EPC preparatory works

EPO Software Patents are hardly enforceable in EU

There is no need to legalize software patents

We can still decide the way we want to go...



Fixing the patent System

- Short & Weak Patents (proposed by a group of large French companies incl. Matra) **Incompatible with TRIPS**
- Short & Weak Models of Utility, Sui Generis Rights (proposed by **Incompatible with patent salesmen**)
- Patent Insurance (Lafitte 90s) **Impossible**
- No Software patents for now **Best solution**



Software Patents : the End of Corporate Taxes

- Anything running on a computer is technical according to the proposed directive: any innovative business method implemented by software running on a computer satisfies the proposed EC directive
- Patents filed in Denmark, France etc. and moved to Ireland, Switzerland, Netherlands or Luxembourg where no taxes will be paid
- Any commercial activity can export its profits through software patents and escape taxes (> 100 KEUR / year / patent)

Software Patents = Limitless Patents for the Service Industry



Conclusion

- The proposed directive on software patents consists in legalizing the illegal and obscure practice of the EPO
- The proposed directive would destroy software innovation and interoperability in Europe
- The proposed directive goes against the wishes of the vast economic majority of European Software businesses and European Software Engineers
- Writers of the proposed directive have considered the point of view of economists as irrelevant (but not the point of view of patent salesmen)
- The proposed directive will lead to massive fiscal evasion through Ireland, Luxembourg and the Netherland

Patent salesmen are taking a high risk