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Committee on Industry, External Trade, Research and Energy

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PE 321.981/11-56

AMENDMENTS 11-56

Draft opinion

(PE 321.981)

Elly Plooij-van Gorsel

Patentability of computer-implemented inventions

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

Text proposed by the Commission

Amendments by Parliament

Amendment by Danielle Auroi and Marco Cappato

Amendment 11
Recital 7 a (new)

(7a) In its resolution¹ on the decision by the European Patent Office with regard to patent No EP 695 351 granted on 8 December 1999, Parliament requested a review of the Office's operating rules to ensure that it was publicly accountable in the exercise of its functions.

¹OJ C 378, 29.12.2000, p. 95.

Justification

The European Patent Office is not a European Union institution. Parliament has raised the question of its accountability in the past.

Or. fr

Amendment by Gilles Savary, Erika Mann and Olga Zrihen Zaari

Amendment 12
Recital 7 a (new)

(7a) Parliament has repeatedly asked the European Patent Office to review its operating rules and for the Office to be publicly accountable in the exercise of its functions. In this connection it would be particularly desirable to reconsider the practice in which the Office sees fit to obtain payment for the patents that it grants, as this practice harms the public nature of the institution.

Justification

Parliament has repeatedly said, in a number of resolutions, that the European Patent Office's practices need reforming.

Or. fr

Amendment by Gilles Savary, Erika Mann and Olga Zrihen Zaari

Amendment 13
Recital 7 b (new)

(7b) While software plays an important role in a number of industries it is also a basic form of creativity and self-expression. Software is, in addition, a field of specialised engineering and a basic human activity, with more than 10 million professional developers throughout the world and tens of millions of people creating software for one purpose or another. Independent developers and small businesses play a fundamental role in innovation in this area. It follows that the means employed to boost investment in largely software-based industries should not lead to jeopardising the capacity of all

concerned to become active creators and innovative users of software, and in particular that patents should not permit the monopolisation of tools for self-expression, creativity, and the dissemination and exchange of information and knowledge.

Justification

Self-explanatory.

Or. fr

Amendment by Danielle Auroi and Marco Cappato

Amendment 14
Recital 11

(11) Although computer-implemented inventions are considered to belong to a field of technology, in order to involve an inventive step, in common with inventions in general, they should make a technical contribution to the state of the art. *deleted*

Justification

Consistency with Amendment 4 by the draftsman. The technical nature of computer-implemented inventions must be proved and not taken for granted.

Or. fr

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 15
Recital 11

(11) Although computer-implemented inventions are considered to belong to a field of technology, in order to involve an inventive step, in common with inventions in general, they should make a technical contribution to the state of the art. ***deleted***

Justification

The recital is ambiguous. As the draftsman says throughout her opinion, you cannot argue that computer-implemented inventions are of a technical nature by definition or necessarily belong to a field of technology. The technical contribution of computer-implemented inventions must be proved case by case.

Or. fr

Amendment by Luis Berenguer Fuster

Amendment 16
Recital 11

(11) Although computer-implemented inventions are considered to belong to a field of technology, in order to involve an inventive step, in common with inventions in general, they should make a technical contribution to the state of the art. ***deleted***

Justification

The technical nature of computer-implemented inventions has to be proved, and not taken for granted. This amendment is in line with Amendment 4 to Article 3 in the draft opinion by Mrs Elly Plooj-van Gorsel as well as the one by Mr Rocard.

Or. en

Amendment by Danielle Auroi and Marco Cappato

Amendment 17

Recital 13

(13) A defined procedure or sequence of actions when performed in the context of an apparatus such as a computer may **make a technical contribution to the state of the art** and thereby constitute a patentable invention. However, an algorithm **which is defined without reference** to a physical environment is **inherently** non-technical and cannot therefore constitute a patentable invention.

(13) A defined procedure or sequence of actions when performed in the context of an apparatus such as a computer may **contribute to knowledge of the relationship between cause and effect involving the controllable forces of nature** and thereby constitute a patentable invention. However, an algorithm **or computer program, whether the symbolic units of which it is composed can be interpreted as referring** to a physical environment **or not**, is non-technical and cannot therefore constitute a patentable invention.

Justification

The first sentence could be taken to mean that otherwise unpatentable ‘sequences of actions’ may be patentable provided they are performed by a computer. The technical nature of a computer-implemented invention does not reside in the fact that a computer is used, but in the fact that it implements the use of controllable forces of nature to obtain a technical effect distinct from those implemented for the computer to process the information. The directive is about computer-implemented inventions, but computer programs themselves are not inventions as they do not belong to the physical world and are protected by copyright.

Or. fr

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 18

Recital 13

(13) A defined procedure or sequence of actions when performed **in the context of an apparatus such as** a computer may **make a technical contribution to the state of the art**

(13) A defined procedure or sequence of actions when performed **with the help of** a computer may **contribute to knowledge of the relationship between cause and effect**

and thereby constitute a patentable invention. However, an algorithm **which is defined without reference to a physical environment** is inherently non-technical and cannot therefore constitute a patentable invention.

involving the controllable forces of nature and thereby constitute a patentable invention. However, an algorithm **or computer program** is non-technical and cannot therefore constitute a patentable invention, **whether the symbolic units of which it is composed can be interpreted as referring to a physical environment or not.**

Justification

The first sentence is ambiguous, as it could be taken as allowing the patentability of 'sequences of actions' once they are performed by a computer, whereas they would in themselves be unpatentable.

As the draftsman says in her draft opinion of 19 December 2002, the technical (and novel) nature of a computer-implemented invention does not reside in the fact that a computer is used, but in the fact that it implements the use of controllable forces of nature to obtain a technical effect distinct from those implemented for the computer to process the information. The directive is about computer-implemented inventions, but computer programs themselves are not inventions as they do not belong to the physical world. The legislator must draw a clear boundary between what can be considered patentable and what can not.

Or. fr

Amendment by Danielle Auroi and Marco Cappato

Amendment 19 Article 2, letter (a)

(a) “computer-implemented invention” means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having one or more *prima facie* novel features which are realised wholly or partly by means of a computer program or computer programs;

(a) “computer-implemented invention” means any invention **susceptible of industrial application** the performance of which involves the use of a computer, computer network or other programmable apparatus and having one or more *prima facie* novel features **constituting a technical contribution, and other features whether novel or not**, which are realised wholly or partly by means of a computer program or computer programs;

Justification

The initial definition of patentability is too broad. Specifically, a computer-implemented inventions should not be considered patentable simply because a computer is used or because the program, performed on a programmable apparatus that is not novel itself, is novel. A technical contribution is required.

Or. fr

Amendment by Angelika Niebler

Amendment 20
Article 2, letter (a)

(a) “computer-implemented invention” means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having ***one or more prima facie novel features which are*** realised wholly or partly by means of a computer program or computer programs;

(a) “computer-implemented invention” means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having ***a feature which is*** realised wholly or partly by means of a computer program or computer programs;

Justification

Requiring the novelty of an invention to be visible prima facie will lead to uncertainties at the application stage and should instead be dealt with during assessment.

Or. de

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 21
Article 2, letter (a)

(a) “computer-implemented invention”
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(a) “computer-implemented invention”
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means any invention the performance of which involves the use of a computer, computer network or other programmable apparatus and having one or more *prima facie* novel features which are realised wholly or partly by means of a computer program or computer programs;

means any invention *susceptible of industrial application*, the performance of which involves the use of a computer, computer network or other programmable apparatus, and having one or more *prima facie* novel features *constituting a technical contribution, and other features whether novel or not*, which are realised wholly or partly by means of a computer program or computer programs;

Justification

Takes up and clarifies the draftsman's Amendment 2. A technical contribution is required for the invention to be patentable. But we need to stipulate that the technical contribution must exist in its own right, by the fact of its effects on the controllable forces of nature, in order for the invention to be patentable. The technical contribution cannot be linked merely to the use of a computer, as the computer is merely a means in the service of the invention and is so whether the computer being used is novel or not. So the relevant criterion is not that of use of a computer, which is merely a means in the service of the invention.

Or. fr

Amendment by Dominique Vlasto

Amendment 22 Article 2, letter (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.

Justification

Reference to the invention's non-obvious nature should come in the assessment of inventiveness covered by Article 4 (1) and (2), not in the definition of 'technical contribution'.

Or. fr

Amendment by Danielle Auroi and Marco Cappato

Amendment 23
Article 2, letter (b a) (new)

(ba) “technical field” means an industrial application domain requiring the use of controllable forces of nature to achieve predictable results. “Technical” means “belonging to a technical field”. The use of forces of nature to control physical effects beyond the representation of information belongs to a technical field. The production, handling, processing, distribution and presentation of information do not belong to a technical field, even if technical devices are used for that purpose.

Justification

The term ‘technical field’, although referred to in several places in the directive, is not defined. The fact that a programmable apparatus makes use of physical effects to process information should not be used to allow patenting of the program performed by such an apparatus.

Or. fr

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 24
Article 2, letter (b a) (new)

(ba) “technical field” means an industrial application domain requiring the use of controllable forces of nature to achieve predictable results. “Technical” means “belonging to a technical field”. The use of

forces of nature to control physical effects beyond the representation of information belongs to a technical field. The production, handling, processing, distribution and presentation of information do not belong to a technical field, even if technical devices are used for that purpose.

Justification

The term ‘technical field’, although referred to in Article 2(b) of the Commission proposal, is not defined in the directive.

For consistency with the draftswoman’s amendments and those we have tabled, there is a need to point out that the patentable nature of an invention must be linked to the technical contribution it delivers, and not to the fact that it relies on the use of a programmable apparatus such as a generic computer. The physical effects of the invention must be measurable in terms of its technical contribution in the material world, that is in the domain of the controllable forces of nature. The fact that an invention makes use of physical effects (within a computer, for instance) to process information is not a sufficient criterion for allowing patenting of the program performed by the apparatus.

Or. fr

Amendment by Luis Berenguer Fuster

Amendment 25
Article 2, letter (b a) (new)

(ba) “technical field” means an industrial application domain requiring the use of controllable forces of nature to achieve predictable results. “Technical” means belonging to a technical field.

The use of forces of nature to control physical effects beyond the representation of information belongs to a technical field. The production, handling, processing and presentation of information does not belong to a technical field, even if technical devices are used for that purpose.

Justification

The term ‘technical field’, although referred to in several places in the Directive, has not been defined. The fact that a programmable apparatus, such as a generic computer, makes use of physical effects in order to process information should not be used to allow patent protection of the program running on such an apparatus.

Or. en

Amendment by Angelika Niebler

Amendment 26
Article 3

Member States shall ensure that a computer-
implemented invention is considered to
belong to a field of technology. *deleted*

Justification

Article 3 is superfluous, in view of the conditions for patentability of computer-implemented inventions set out in Article 2(b) and Article 4.

Or. de

Amendment by Angelika Niebler

Amendment 27
Article 4, paragraph 1

1. ***Member States shall ensure that a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new, and involves an inventive step.***

1. ***For a computer-implemented invention to be patentable it must be new, involve an inventive step and be susceptible of industrial application. An inventive step shall exist only if the computer-implemented invention delivers a technical***

contribution.

Justification

For clarity.

Or. de

Amendment by Danielle Auroi and Marco Cappato

Amendment 28
Article 4, paragraph 1

1. Member States shall ensure that a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new, **and** involves an inventive step.

1. Member States shall ensure that a computer-implemented invention is patentable on the condition that it is susceptible of industrial application, is new, involves an inventive step **and belongs to the technical field.**

Justification

Article 4(1) must be consistent with the new wording of Article 2.

Or. fr

Amendment by Luis Berenguer Fuster

Amendment 29
Article 4, paragraph 1

1. Member States shall ensure that a computer-implemented invention is patentable **on the condition that it is susceptible of industrial application, is new, and involves an inventive step.**

1. Member States shall ensure that a computer-implemented invention is **not** patentable **'per se', and can be so only in so far as it constitutes a technical contribution.**

Justification

It must be made clear that computer programs are not patentable in themselves.

Or. es

Amendment by Angelika Niebler

Amendment 30
Article 4, paragraph 2

2. Member States shall ensure that it is a condition of involving an inventive step that a computer-implemented invention must make a technical contribution. *deleted*

Justification

For clarity.

Or. de

Amendment by Angelika Niebler

Amendment 31
Article 4, paragraph 3

3. The technical contribution shall be assessed by consideration of the difference between the scope of the patent claim considered as a whole, elements of which may comprise both technical and non-technical features, and the state of the art. *deleted*

Justification

For clarity.

Or. de

Amendment by Danielle Auroi and Marco Cappato

Amendment 32
Article 4, paragraph 3

3. The technical contribution shall be assessed by consideration of the difference between the scope of the patent claim considered as a whole, ***elements of which may comprise both technical and non-technical features***, and the state of the art.

3. The technical contribution shall be assessed by consideration of the difference between the scope ***of the technical features*** of the patent claim considered as a whole, and the state of the art.

Justification

To ensure that the requirements of novelty and inventiveness apply to the technical features, otherwise any new software running on a non-new technical apparatus could be patentable.

Or. fr

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 33
Article 4, paragraph 3

3. The technical contribution shall be assessed by consideration of the difference between the scope of the patent claim considered ***as a whole, elements of which may comprise both technical and non-***

3. The ***significant extent of the*** technical contribution shall be assessed by consideration of the difference between the ***technical elements included in the*** scope of the patent claim ***being*** considered and the

technical features, and the state of the art.

state of the art.

Justification

Takes up the first part of the draftswoman's Amendment 7 of 19 December but deletes the phrase 'as a whole' to remove all ambiguity.

There is a need to point out that the requirements of novelty and inventiveness apply to the technical features alone, otherwise there is a risk that any new software running on a non-new technical apparatus will be patentable.

Or. fr

Amendment by Angelika Niebler

Amendment 34
Article 4 a (new)

Article 4a

Exclusions from patentability

A technical contribution shall not exist if the computer-implemented invention merely provides for the use of a computer or other apparatus. Hence inventions that implement business, mathematical or other methods with the aid of a computer program, and do not produce a technical effect that goes beyond the normal physical interactions between a program and computer, network or other facility, shall not be patentable.

Justification

To prevent purely business methods, normal computer programs and mathematical or other methods from being patentable.

Or. de

Amendment by Malcolm Harbour

Amendment 35

Article 5

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed computer, a programmed computer network or other programmed apparatus, or as a process carried out by such a computer, computer network or apparatus through the execution of software.

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed computer, a programmed computer network or other programmed apparatus, **or a computer program stored on a carrier or supplied by signal**, or as a process carried out by such a computer, computer network or apparatus through the execution of software.

Justification

The European Patent Office and some national courts (e. g. the German Bundesgerichtshof) already allow program product claims. The Commission's proposal would curtail this practice and create further problems. Indeed, the current wording of Article 5 of the proposal would provide product-patent protection for a computer-implemented invention only when an infringer combines the computer-program invention with hardware to form a 'programmed computer, a programmed computer network or other programmed apparatus'. That means in practice that only users will directly infringe the patent as they are implementing the invention in a computer, a computer network or another apparatus while the manufacturers and distributors will escape direct infringement by manufacturing or distributing a disk containing the computer-implemented invention. Such outcome is not desirable.

The change of wording proposed in this amendment avoids the pitfalls of the Commission's proposal and allows the directive to remain in line with the case-law of the European Patent Office and of some Member States.

Or. en

Amendment by Angelika Niebler

Amendment 36

Article 5

Member States shall ensure that a computer-
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implemented invention may be claimed as a product, that is as a programmed computer, a programmed computer network or other programmed apparatus, or as a process carried out by such a computer, computer network or apparatus through the execution of software.

computer-implemented invention may be claimed as a product, that is as a programmed computer, a programmed computer network or other programmed apparatus, or as a process carried out by such a computer, computer network or apparatus through the execution of software.

2. A patent claim for a computer program by itself or stored on a carrier shall not be admissible unless, as soon as the program is installed and run on a computer, a programmed computer network or other programmed apparatus, it leads to a product or process under the patent claim as in paragraph 1.

Justification

To clarify the point that software programs as such should be entitled to patent protection only when they deliver a technical contribution that goes beyond the programming itself.

Or. de

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 37 Article 5

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed ***computer, a programmed computer network or other programmed apparatus***, or as a process ***carried out by such a computer, computer network or apparatus through the execution of software***.

(a) Member States shall ensure that a computer-implemented invention may be claimed ***only*** as a product, that is as a programmed ***device***, or as a ***technical production*** process.

Justification

Takes up the draftsman's Amendment 9 (opinion of 19 December 2002) but clarifies points (a) and (b).

On point (a), there is a need to ensure that the production of pure information cannot be assimilated to a production process, the English word 'process' being invariably translated into French by 'production'. The main aim here is linguistic clarification.

On point (b), in the interest of clarification we have added 'production, handling, processing and presentation' to take account of the cases of patent claims for commercial methods (in fact the processing of information) that exist in the United States and should not exist in the European Union. Similarly, 'even when technical apparatus is used for that purpose' was added to ensure that performance on any programming apparatus does not contribute to any technical process and cannot be considered patentable. Otherwise any generic software running on a programmable apparatus with novel features could be patentable, which is explicitly prohibited by the 1973 European Patent Convention, as indeed mentioned in Recital 7 of the Commission proposal.

Or. fr

Amendment by Danielle Auroi and Marco Cappato

Amendment 38 Article 5

Member States shall ensure that a computer-implemented invention may be claimed as a product, that is as a programmed **computer, a programmed computer network or other programmed apparatus**, or as a process **carried out by such a computer, computer network or apparatus through the execution of software**.

(a) Member States shall ensure that a computer-implemented invention may be claimed **only** as a product, that is as a programmed **device**, or as a **technical production** process.

Justification

Clarifies Amendment 9 by the draftsman. The term 'technical' has been added to ensure that the production of pure information cannot be assimilated to a production process.

Amendment by Gilles Savary, Erika Mann, Olga Zrihen Zaari and Carlos Westendorp y Cabeza

Amendment 39
Article 5, letter (b) (new)

(b) Member States shall ensure that the production, handling, processing and presentation of information, in whatever form, can never constitute direct or indirect infringement of patent, even when technical apparatus is used for that purpose.

Justification

Takes up the draftsman's Amendment 9 (opinion of 19 December 2002) but clarifies points (a) and (b).

On point (a), there is a need to ensure that the production of pure information cannot be assimilated to a production process, the English word 'process' being invariably translated into French by 'production'. The main aim here is linguistic clarification.

On point (b), in the interest of clarification we have added 'production, handling, processing and presentation' to take account of the cases of patent claims for commercial methods (in fact the processing of information) that exist in the United States and should not exist in the European Union. Similarly, 'even when technical apparatus is used for that purpose' was added to ensure that performance on any programming apparatus does not contribute to any technical process and cannot be considered patentable. Otherwise any generic software running on a programmable apparatus with novel features could be patentable, which is explicitly prohibited by the 1973 European Patent Convention, as indeed mentioned in Recital 7 of the Commission proposal.

Amendment by Danielle Auroi and Marco Cappato

Amendment 40
Article 5, letter (b) (new)

(b) Member States shall ensure that the production, handling, processing and presentation of information, in whatever form, can never constitute direct or indirect infringement of patent, even when technical apparatus is used for that purpose.

Justification

The terms ‘production, handling, processing and presentation’ take more account of cases of patent claims for commercial methods (in fact the processing of information) that exist in the United States and should not exist in the European Union. Similarly, ‘even when technical apparatus is used for that purpose’ was added to ensure that the performance on any apparatus of programmes that do not contribute to any technical process cannot be considered patentable. Otherwise any generic software running on a programmable apparatus with novel features could be patentable, which is explicitly prohibited by the 1973 European Patent Convention, as mentioned in Recital 7.

Or. fr

Amendment by Malcolm Harbour

Amendment 41
Article 6

Acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof relating to decompilation and interoperability, or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.

The rights conferred by patents granted for inventions within the scope of this Directive shall not affect acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular those acts described and limited in Articles 5(2), 5(3) and 6.

Justification

Directive 91/250 on the legal protection of computer programs by copyright permits lawful users to perform certain acts that would otherwise fall under copyright, and in particular the acts 'indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs', if precise conditions are met. Directive 91/250 establishes a careful balance between the interests of the copyright holder and the interests of parties seeking to develop interoperable programs. The proposed Directive on patentability of computer-implemented invention should not disrupt this balance. The proposed amendment to Article 6 has the value of providing greater clarity than the more general wording in the Commission-proposed text by specifying the relevant provisions of Directive 91/250.

Or. en

Amendment by Dominique Vlasto

Amendment 42 Article 6

Acts permitted under Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof relating to decompilation and interoperability, or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.

Acts permitted *as an exception* under **Articles 5 and 6 of** Directive 91/250/EEC on the legal protection of computer programs by copyright, in particular provisions thereof relating to decompilation and interoperability, or the provisions concerning semiconductor topographies or trade marks, shall not be affected through the protection granted by patents for inventions within the scope of this Directive.

Justification

Patents should not restrict the flexibility obtained by special exceptions to the normal scope of copyright applied to computer programs, but this must only be within the strict limit of such exceptions as laid down in Articles 5 and 6 of Directive 91/250/EEC.

Or. fr

Amendment by Angelika Niebler

Amendment 43
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 ***patent protection for*** computer-implemented inventions on innovation and competition, both within Europe and internationally, and on European businesses, including electronic commerce.

Justification

What impact patents for computer-implemented inventions will have on innovation and competition will depend not on the granting of patents as such, but on how patent-holders enforce their patent protection.

Or. de

Amendment by Danielle Auroi and Marco Cappato

Amendment 44
Article 8, letter (c a) (new)

(ca) whether the powers delegated to the European Patent Office are compatible with the requirements arising from the harmonisation of European Union legislation and with the principles of transparency and responsibility.

Justification

Self-explanatory.

Or. fr

Amendment by Angelika Niebler

Amendment 45
Article 8, letters (b) and (c)

(b) whether the rules governing the determination of the patentability requirements, and more specifically novelty, inventive step and the proper scope of claims, are adequate; and
(c) whether difficulties have been experienced in respect of Member States where the requirements of novelty and inventive step are not examined prior to issuance of a patent, and if so, whether any steps are desirable to address such difficulties.

(b) whether the rules governing the determination of the patentability requirements, and more specifically novelty, inventive step and the proper scope of claims, are adequate; and
(c) whether difficulties have been experienced in respect of Member States where the requirements of novelty and inventive step are not examined prior to issuance of a patent, and if so, whether any steps are desirable to address such difficulties, **and**

Justification

The Commission report should discuss any difficulties that have arisen with the relationship between patent protection by means of computer-implemented inventions and the protection of computer programs by means of copyright law, as laid down in Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs.

Or. de

Amendment by Angelika Niebler

Amendment 46
Article 8, letter (c a) (new)

(ca) any difficulties that have arisen with the relationship between protection by means of patents on computer-implemented inventions and the protection of computer programs by means of copyright law, as laid down in Directive 91/250/EEC.

Justification

The Commission report should discuss any difficulties that have arisen with the relationship between patent protection by means of computer-implemented inventions and the protection of computer programs by means of copyright law, as laid down in Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs.

Or. de