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Journalnummer
400.C.2-0

Kontor
EUK

13. maj 2004



I forlængelse af oversendelse af notat vedr. Patentering af Computer-Implementerede Opfindelser (Software-direktivet) den 6. maj 2004 fremsendes vedlagt det tyske ændringsforslag af 21. april 2004.

P. H. Orskov

GERMAN DELEGATION

2049th COREPER I

April 21st 2004

Agenda item 26: Directive on the patentability of computer-implemented inventions

Article 2 lit. b

"(b) "technical contribution" means a contribution to the state of the art in a technical field, which is new and not obvious to a person skilled in the art. The technical contribution shall be assessed by consideration of the difference between the state of the art and the scope of the patent claim, considered as a whole, which must comprise technical features, irrespective of whether or not these are accompanied by non-technical features, whereby the technical features must predominate. The use of natural forces to control physical effects beyond the digital representation of information belongs to a technical field. The mere processing, handling, and presentation of information do not belong to a technical field, even where technical devices are employed for such purposes."

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The German Delegation suggests to delete recital (13) and to rephrase recital (13a) as follows:

"(13a) ~~However, the~~ The mere implementation of an otherwise unpatentable method on an apparatus such as a computer is not in itself sufficient to warrant a finding that a technical contribution is present. Accordingly, a computer-implemented business method, data processing method or other method in which the only contribution to the state of the art is non-technical cannot constitute a patentable invention."