

# Unternehmer gegen Softwarepatentierung



## PRESS RELEASE

### EU Council Presidency - SME call for change in patent policy

**Hamburg/Strasbourg - On the occasion of tomorrow's speech of the German chancellor Angela Merkel in the European Parliament the entrepreneurs' initiative patentfrei.de calls the German Federal Government for a change in patent policy. In their open letter to the chancellor the initiative criticises the plans of the German Federal Ministry of Justice (BMJ) to support a new system for patent litigation in Europe (EPLA).**

patentfrei.de, which is supported by more than 650 small and medium enterprises (SMEs), finds the EPLA plans unilaterally favouring the needs of the big industry. Furthermore, basic democratic principles as the separation of powers and independence of the judges are violated as the planned EPLA institutions heavily share personnel with the European Patent Organisation (EPO). Not embedding the whole system into the EU's legal framework makes the legislative forces drop critical capabilities for influence on the patent system as a whole.

While the increasing costs for lawsuits will hamper SMEs considerably, the main EPLA-induced threat comes from the foreseeable legitimization of software patents, says the initiative. This threat is so severe that it could kill a vast number of SMEs. patentfrei.de warns strongly against seeing this question as a side issue which should not delay the reform of legislation. In fact, the software patent question will be a crucial issue for matching or not reaching the goals of the Lisbon agenda.

The initiative opposes the unsustainable reasoning of the German Federal Ministry of Justice (BMJ), by which it supports the EPLA. For the ministry, innovation seems to come solely from the number of a company's patent applications. Such a view is "a slap in the face of those which build the fundament for innovation and employment" says the initiative's spokesman with the software producing SMEs in mind. Only a small number of those hold for patents themselves.

The BMJ also conceals the enormous legal uncertainty which software developers and their customers face. The legal enforcability of software patents could bring down their self-developed products and press them into forbearance, indemnification or license payments.

Together with the big companies, the BMJ plays confusing games. As an example, the Minister of Justice herself, Brigitte Zypries, acts as the patron of a campaign started by the American software company Microsoft last year. The initiative has mixed feelings about the ministry becoming a "lobbying agency for the big players' interests" and inflicting damage on the European SMEs by preparing the ground for thousands of software patents by Microsoft and other mainly non-European companies.

patentfrei.de reminds the chancellor of her signature of the petition about the software patent problem in the German Bundestag back in February 2005. The expressed will in this document is incompatible with the EPLA plans. The EPLA patent high court would fortify exactly that patent granting practices and patent legislation which has been criticised by the Bundestag.

It is "absolutely and immediately necessary" that the "Federal Government changes its policy regarding the patent system reform". As already outlined into their "Common Statement Against Software Patents", patentfrei.de asks for

1. abandoning the EPLA and embedding a High Court into the existing EU legal framework
2. not involving people connected to the EPO into the juridical institutions
3. changing the patent examination directives and the means of control over the European Patent Office
4. introducing a European regulation which once and for all bans software patents.

Open letter to the chancellor (in German):

[http://www.patentfrei.de/download/resources/Merkel\\_16.01.2007.pdf](http://www.patentfrei.de/download/resources/Merkel_16.01.2007.pdf)

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## Links:

Open letter to the chancellor

[http://www.patentfrei.de/download/resources/patentfrei\\_Merkel\\_16.01.2007.pdf](http://www.patentfrei.de/download/resources/patentfrei_Merkel_16.01.2007.pdf)

Working program of the German Federal Government for the Council Presidency

<http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU-P-AProgr-d-2911.pdf>

Lisboa Agenda

[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/de/ec/00100-r1.d0.htm](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/de/ec/00100-r1.d0.htm)

Press release „Europa gelingt gemeinsam (Europe is a collective success)“ of the BMJ, 2006-12-28:

<http://www.bmj.de>

German Ministry of Justice Mrs. Zypries as patron of the Microsoft campaign „Die Idee (The Idea)“

<http://www.heise.de/newsticker/meldung/82494>

Interfractional proposal of the Bundestag about the software patent problem (Drucksache 15/4403)

<http://dip.bundestag.de/btd/15/044/1504403.pdf>

patentfrei.de's EPLA position paper

[http://www.patentfrei.de/download/resources/patentfrei\\_EPLA\\_Positionspapier.pdf](http://www.patentfrei.de/download/resources/patentfrei_EPLA_Positionspapier.pdf)

Website patentfrei.de / Unternehmer gegen Softwarepatentierung

[www.patentfrei.de](http://www.patentfrei.de)

patentfrei.de's Common Statement Against Software Patents

[http://www.patentfrei.de/download/resources/patentfrei\\_Erklaerung\\_gegen\\_Softwarepatentierung.pdf](http://www.patentfrei.de/download/resources/patentfrei_Erklaerung_gegen_Softwarepatentierung.pdf)

**patentfrei.de** is an initiative of small and medium-sized German enterprises. It has been founded in 2004 to contradict the highly controversial software patent directive, which has eventually been thrown down by EU Parliament. More than 600 entrepreneurs, founders and CEOs of small and medium-sized businesses have signed patentfrei.de's „Common Statement“ those days. In the spirit of this statement, patentfrei.de continues to represent the small and medium-sized enterprises. Their biggest concern is not the protection **through** patents, but the protection **against** patents.

Official supporters of patentfrei.de are Bundesverband mittelständische Wirtschaft (BVMW) and Berufsverband der Selbständigen in der Informatik (BvSI).

patentfrei.de official supporters:



BVMW  
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