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The European high tech industry strongly supports the draft directive on Computer-Implemented Inventions (CII) as proposed by the Council.

In our digital era, computer-implemented inventions are at the heart of all digital technology and are a very significant force behind innovation in Europe in so many industry sectors, covering healthcare, telecommunications, mobile phones, motor vehicles, aviation and consumer electronics. These computer-implemented inventions will continue to boost Research and Development (R&D) and secure employment in Europe, as long as they can adequately be protected by patents. This protection currently exists and the political agreement achieved by the Council in May 2004 on the CII directive¹ and turned into a Common Position by the Council on 7th March 2005, continues to provide it.

On the other hand, some of the amendments proposed by the European Parliament in first reading would eliminate most patents on computer-implemented inventions. A directive along these lines would seriously threaten R&D in Europe. European and non-European companies alike would shy away from investing in innovation in Europe. Thousands of jobs in Europe would be at risk.

The political agreement adopted by the Council in May 2004 will help the European Union to fulfil the **Lisbon Agenda** for Europe to become the leading knowledge-based economy and is the best way forward for Europe because:

- **It secures Europe's position as a leading global innovator.** Europe is a prominent player in computer-implemented inventions in many areas such as healthcare, telecommunication, mobile phones, motor vehicles, aviation and consumer electronics. Large parts of today's industry in Europe, employing more than 100.000 researchers and developers, protect their computer-implemented inventions by patents since decades. Europe needs patents to maintain and strengthen its leadership. Patents provide protection for inventions and are an important source for funding R&D. Venture capitalists only invest in innovative SMEs if present and future inventions can be protected through patents. There is no valid reason to exclude technical inventions from patentability just because they use software.

¹ Proposal for a directive of the European Parliament and of the Council on the patentability of computer-implemented-inventions (18 May 2004).

- **It secures jobs.** Elimination of the patentability of computer-implemented inventions in Europe would severely damage European industry, because these inventions cover more than 2/3 of the existing patent portfolio. Europe would become a haven for plagiarism. European industry, stripped of patent protection in its home-market, would lose considerable market share to those who do not invest in R&D and simply copy. Licensing of patents on computer-implemented inventions would become impossible in Europe. As a consequence, the viability of European industry would be seriously affected. Europe risks losing thousands of jobs including many highly skilled sustainable R&D jobs. This is contrary to what was stated at the Lisbon European Council, namely that ‘innovation and ideas must be adequately rewarded within the knowledge-based economy, particularly through patent protection’.
- **It stimulates technology transfer and knowledge-sharing.** Patents stimulate technology transfer and knowledge-sharing between companies and accelerate innovation, because patent applications have to be made public after 18 months. Knowledge sharing between cooperating companies can even take place much earlier. Companies often license these patents to others. Without patent protection, on the other hand, companies would not disclose their computer-implemented inventions to other parties, keeping them secret as long as possible. As a result European industry would cease to cooperate in publicly funded inter-company R&D programmes, including EU and Eureka programmes. Such secretive practices coupled with a withering of research-cooperation would jeopardize innovation in Europe and adversely affect standardisation.
- **It prevents patents on pure software.** To be patentable, an invention must make a technical contribution. Pure software lacks such a contribution and hence is excluded by the political agreement. On the other hand, a computer-implemented invention does make a technical contribution, i.e. for a TV or mobile phone. In this case, the invention is not in software ‘as such’; the invention just uses software for its implementation.
- **It does not allow for ‘trivial’ patents.** Patents may only be granted for computer-implemented inventions that are new, non-obvious and make a technical contribution.
- **It strengthens Europe’s position in the global market.** Severely weakened patent laws would isolate Europe from the rest of the world, and force global players to refocus their attention on other regions. This would alienate the European industry from the US and Asia Pacific. The political agreement, on the other hand, supports Europe’s position in the global market.
- **It is compliant with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).** According to TRIPS, patents must be granted for any invention in all fields of technology, provided that they are new, non-obvious and industrially applicable. TRIPS does not allow for discriminating as to the field of technology and does not allow the exclusion of computer-implemented inventions.
- **It allows for co-existence between computer-implemented inventions and open source software.** Open source software and patents for computer-implemented inventions have co-existed for many years without problems. Open source software is also used increasingly in our industry. Companies must be able to choose on a case-by-case basis whether to use an open source solution or a proprietary solution, or the combination of both.
- **It confirms that copyright protection alone is not enough to protect inventions.** Copyright protects only the actual software i.e. the program code, as written, and nothing more. A competitor can freely use the underlying concept without infringing copyright and it is usually quite easy to work around the copyright-protected specific program. On the other hand, patents protect the underlying technical function and concept, provided they meet the patentability requirements. Most effort and

money goes into the technical function and concept, not the specific expression, of a computer-implemented invention.

For all these reasons, we urge the new European Parliament to accept the draft directive as proposed by the Council.

More info: www.patents4innovation.org

ACEA, the European Automobile Manufacturers Association, represents the 13 major European car, truck and bus manufacturers, and is a key interlocutor to the EU Institutions in Brussels and Strasbourg.

CECED is the European Committee of the household appliance manufacturers in Europe. CECED's member companies employ over 200,000 people, are mainly based in Europe, and have a turnover of about 50 billion euro. If upstream and downstream businesses are taken together, the sector employs over 500,000 people.

COCIR, the European Coordination Committee of the Radiological, Electromedical and Medical IT Industries, is the European representation of manufacturers of innovative medical capital equipment. Without the products delivered by COCIR members, health care services would be unable to deliver health services at the level of quality and efficiency expected by patients and citizens. Fast and conclusive diagnosis is the key element for appropriate therapy decisions. Medical Imaging equipment, cardiological diagnostic equipment and the related IT applications are making an indispensable contribution to this process, saving lives at every day. COCIR represents approximately 200 companies from the medical capital equipment sector.

EDMA (the European Diagnostic Manufacturers Association) is the trade association that represents the in vitro diagnostics (medical testing) industry active in Europe. The members of EDMA are National Associations in European countries and the major manufacturing companies producing laboratory testing products.

EICTA, founded in 1999 is the voice of the Information and Communications Technology and Consumer Electronics Industries in Europe. It is composed of 51 major multinational companies and 32 national industry associations from 24 European countries. In all, EICTA represents more than 10,000 companies all over Europe with more than 2 million employees and EUR 200 billion in revenues.

ProTon Europe is a pan-European network of Knowledge Transfer Offices linked to Universities and Public Research Organisations. Its ultimate objective is to boost the economic and social benefits of publicly funded R&D throughout Europe by further developing the professional skills of those working in this field. This should further contribute to the creation of new products, processes and markets, improve the management of innovation, and thereby stimulate sustainable and high value economic growth, competitiveness and employment. ProTon Europe has more that 220 organisations as members from 27 different European countries.

ITEA is Europe's premier cooperative R&D programme for software in software-intensive systems. It brings together partners from industry, universities and research institutes in strategic projects. The ITEA Programme was launched in 1999 for an anticipated period of eight years, which is prolonged until 31 December 2008. Meanwhile the preparations for a follow-up programme have started. The current set of 77 projects (of which 35 are completed, 29 are running and 13 are in its start-up phase) with 486 partners from 23 countries has established a solid basis for further development. Many of these have led to the creation of new products, and some to new start-ups.

MEDEA+ (EUREKA 2365) is the industry-driven pan-European programme for advanced co-operative R&D in microelectronics to ensure Europe's technological and industrial competitiveness in this sector on a worldwide basis. MEDEA+ focuses on enabling technologies for the Information Society and aims to make Europe a leader in system innovation on silicon. MEDEA+ stimulates intensive trans-border co-operation between large, small and medium-sized microelectronics companies, their suppliers, system integrators, universities, public laboratories and research institutes. With 69 running or already ended projects, the programme mobilises cumulative resources in excess of 19.000 person-years with an associated cost of about 500 million euro per year. MEDEA+ involves over 340 partners in total, from 21 European countries, with France, Germany, The Netherlands, Italy and Belgium being the leading supporters.