



IN FAVOUR OF A FREE AND SAFE COMPETITION ON THE SOFTWARE MARKET

Paris, the 22nd of October 2001. AFAS, Anshare, Europe Shareware, and RUSH wish to warn the French Legislator against the practices of the European Patent Office (EPO) which grant patents on software that are legally recognised neither by the European legislation, nor by the French legislation.

The setting up of software patents is, as it was showed by the negative vote of 91% of the people who answered the European Commission survey (1) on the proposition to take the application programs off the list of the patent exceptions, contrary to the interests of European software industry and particularly of the independent authors whom we represent ; all independent economic studies (2) agree on the fact that software patents reduce innovation and competition.

It is useful to remind that the shareware is the software form independent authors prefer and is at the origin of the main modern computer standards' democratisation (ZIP, MP3 files...) as well as a wall against the setting up of monopolies (Opera, the European navigator used by more than 5 million people, is the unique viable alternative to Microsoft's Internet Explorer for Windows, Linux and Macintosh).

In order to emphasize the debate on software patents, here is a summary of the presented arguments :

In favour of software patents

- they pay back the expenses on the research (20 years of monopoly on the patented process)
- they encourage sharing knowledge by way of the registration procedure

Against software patents

- longer time to market because of the research of prior art
- obligation to appoint jurist services
- increase in legal risks and insurance premiums
- incitement not to disclose the source code of the program in order to avoid prosecution
- strengthening of the multinationals' power to the detriment of European SMEs

From the points quoted above, for the European industry, it follows :

- => a loss of reactivity, longer innovation cycles
- => rising development expenses
- => a dangerous dependence upon multinationals such as IBM or Microsoft

References

(1) THE RESULTS OF THE EUROPEAN COMMISSION CONSULTATION EXERCISE ON THE PATENTABILITY OF COMPUTER IMPLEMENTED INVENTIONS – by PbT Consultants – http://europa.eu.int/comm/internal_market/en/indprop/softanalyse.pdf

(2) Combining Inventions in Multi-invention Products: Organizational Choices, Patents, and Public Policy – Deepak Somaya and David J. Teece – <http://www.rhsmith.umd.edu/lbpp/dsomaya/Papers/DSDT00.pdf>

Sequential Innovation, Patents, and Imitation – James Bessen and Eric Maskin – <http://www.researchoninnovation.org/patent.pdf>

Software Userright, Solving Inconsistencies of Software Patents – Jean-Paul Smets – <http://www.smets.com/it/policy/userright/userright.pdf>

About A.F.A.S. (Association Française des Auteurs de Sharewares) – www.afas-fr.org

Created in November 1995, AFAS (Association Française des Auteurs de Shareware) works to improve the shareware image in France. To do so, AFAS publishes for its members a large volume of useful informations on how to create and distribute sharewares, in order to help them to code and to spread softwares which follow some quality and fonctionnality criteria. AFAS also works for a respectful distribution of sharewares following some rules and for a better understanding of the concept by the users.

About Anshare – www.anshare.com

Since some years, the Anshare company supports and promotes french authors and their softwares via its different websites. Up to 1500 authors and more than 3000 softwares are now presented in our catalog. <http://www.anshare.com> - www.gratuciel.com - www.sharedif.com

About Europe Shareware – www.europe-shareware.org

The object of Europe Shareware Association is to translate (interface and documentation), promote and distribute European sharewares. The Association is present at the moment in France, Spain, Poland and North America and it distributes more then 110 sharewares of about fifty European authors for Atari, Java and MacOS systems.

About R.U.Sh (Regroupement des Utilisateurs du Shareware) – www.rushweb.org

Association aiming to defend free and free testing software and to share "softs" and "web" resources and experiences.

To its name :

- R.U.Sh quarterly Magazine on CD-ROM (News about sharewares, Linux, scene, etc)
- 3 GB Web Server (more than 3000 French-speaking titles) – <http://www.rushweb.org/>
- MAIA operation (free resources and educational software) – <http://webvilles.org/maiaweb>
- Webville Portal (800 local linked sites) – <http://webvilles.org>
- Local experimental web site - <http://webvilles.org/seysses/>

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