



EXCO/CA00/RES/H

Scope of Software Protection

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession of more than 70 countries, assembled at its World Congress held in Vancouver from June 12 to June 16, 2000, passed the following Resolution :

Taking note

- a) of the increasing activity in patenting of computer and software related innovations in all fields of business and technology, and
- b) the removal of restrictions or exclusions from patenting of computer programmes as such in patent legislation worldwide in compliance with WTO member states of obligations under the TRIPS Agreement,

Having considered

- a) that when patent claims on such innovations are directed to a method for performance of operations and/or a system for implementation of such method, the definition of the scope of protection will typically include features or elements additional to the features or elements integrated in the software innovation itself, and
- b) that, under existing statutory definitions, such definition of the scope of protection implies that unauthorized use of the invention by a third party will amount to an act of contributory infringement only, and
- c) that in many countries the enforcement of patents against acts of contributory infringement is limited to the performance of such acts in respect of use of the invention as a whole (method or system) within the national jurisdiction,

Welcoming the development of practice in the EPO to accept patent claims directed specifically to the software product in which the innovation is enshrined,

Resolves

- a) that there is a need for worldwide harmonization on the enforceability of protection for patents on computer or software related inventions, and
- b) that the protection afforded must be relevant to commercial realities and commensurate with the contribution to the art made by the inventor, and

Urges relevant authorities at the international, regional and national levels to provide a harmonized definition of the rights conferred by a patent that takes into account such commercial realities.