

SPOF Survey - SME's Views on Patents for Computer-Implemented Inventions

The Association of Swedish Patent Attorneys, SPOF, has conducted a survey on this issue which sheds valuable light on the views of small and medium-size enterprises.¹ Replies were received from 188 companies of which 125 were small companies, 27 medium-sized companies (SMEs) and 36 were large companies.² The companies were asked "Which of the following alternatives best reflects your company's opinion?":

(a) We think that the rules in Europe for patenting products with functions controlled by computer programs shall be maintained as per the current practice of the European Patent Office;

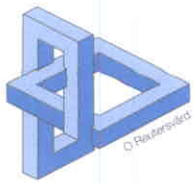
(b) We think that the rules should be restricted along the lines proposed by the European Parliament; or

(c) We have no opinion or do not know.

The results make for interesting reading. Small and medium-sized companies replied as follows. 50% wanted to maintain the current practice of the EPO. Only 3% voted to change the rules and reduce the scope for patentability along the lines suggested by the European Parliament. 43% answered that they had no opinion and 3% did not specify an answer. So, almost 94% of the companies that indicated a preference opted to maintain the current practice of the EPO. A mere 6% of those with an opinion endorsed the limitations proposed by the European Parliament in September 2003.

¹ Conducted during the summer of 2004 by Svenska Patentombudsforeningen SPOF (The Ass. of Swedish Patent Attorneys)

² For the purposes of the survey the following thresholds were employed: less than 49 employees (small companies), between 49 employees and 250 (medium-sized companies), more than 250 employees (large companies)



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The result was much the same for the large companies surveyed. 67% opted to maintain current practice, 30% had no opinion and just 3% supported the restrictions on patentability advocated by the Parliament. Again, the breakdown of those companies expressing a preference was as follows: 96% in favour of the current practice against 4% supporting more restrictive scope for patenting computer-implemented inventions.³

The clear message from this research is that small and medium-sized companies, by an overwhelming majority, do not support any moves towards restricting the scope for obtaining patent protection for computer-implemented inventions. Rather they emphatically indicate a preference to maintain the current practice of the EPO which allows companies to protect their computer-implemented innovations by patenting.

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³ The results for all companies together, ie. small, medium and large, were as follows: 53% maintain current practice of the EPO, 43% no opinion, 3% amend as per Parliament's proposal, 3% nothing filled in. Thus for those expressing a clear preference the outcome was: 94% in favour of keeping the current practice and 6% advocating restrictions on patentability as per the Parliament.