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Brussels, 28 March 2005



Dear Members of the European Parliament,

As an organisation which has studied the software patent directive dossier for many years and which has been explicitly entrusted by 80,000 individuals and 1,400 companies to act as their voice on this subject, we would like to explain our views on how to proceed with the software patents directive.

The text submitted by the Council is not worthy of the name "Common Position". The Council ignored requests from four national Parliaments and three of its own members to reopen discussions, and additionally the text is accompanied by 8 unilateral declarations of concerns. Along with the Commission's rejection without justification of the EP's restart request, this means the EP's second reading carries the undue burden of basically having to start from scratch.

There are two approaches we support: reinstatement of the spirit of the first reading of the EP and if that would be deemed to be impossible, rejection of the directive. We are convinced anything in between will lead to legal uncertainty and codified unlimited software patentability.

Both approaches have a strong case going for them, and both would send a strong signal to the legislative and executive branches of the European Union. They are explained in more detail in Annexes A and B of this letter. Since we are aware of the need for independent third party reports, we also summarise a few of those in Appendix C.

Finally, we have also prepared an overview of amendments to the Council text which are, in our view, necessary to pave the way for a strong negotiation position in Conciliation. These can be found on the website <http://www.ffii.org/amend>, and are strongly based on the European Parliament's first reading. As the second reading vote comes nearer, that site will be updated with analyses of amendments circulated in the European Parliament.

We hope that the European Parliament will stand its ground in this procedure, which has brought more people closer to the European decision making process than ever before, and that it once more will make the right choices.

Power to the Parliament!

Sincerely yours,

Erik Josefsson  
Brussels Representative

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Member of the Board

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