

# Ensure CII Patentability



## ***Intellectual Property Protections – Such as the CII – Take Risk Out of ICT Creation***

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It's hard to create. It's especially hard if you write software and/or develop information and communications technology (ICT). Millions of lines of code. Thousands of hours of development. Testing. Beta's. This is not to mention finding the capital necessary to fund those activities in the first place.

The short of it – developing software/ICT can be risky business.

The European Council recently took a giant step toward reducing some of that risk. On March 7<sup>th</sup>, it approved the Common Position on the Computer Implemented Inventions (CII) Patent Directive. This proposal seeks to impose a limited and harmonized regime of CII patent protection across the entire EU. In doing so, it brings Europe one step closer toward delivery on the Lisbon Agenda for growth and jobs – one which seeks to make Europe the most competitive and knowledge-driven economy by 2010.

The Agenda places innovation at the “beating heart of European growth.” Intellectual property (IP) represents the building blocks of software/ICT innovation. Protecting that property ensures that innovation can grow.

The overwhelming majority of developers here and across the globe craves and demands IP protection. Most of these developers, many of whom are small-to-medium-sized enterprises, simply won't risk time, effort and euros if their hard-earned ideas can be easily misappropriated.

Trademark, trade secret/non-disclosure agreements and copyrights – though certainly important in the grand scheme of protecting IP – provide imperfect protection against the wilds of IP theft and imitation. The Common Position perfects these tools.

It's limited – codifying CII so that broad patents, such as Amazon.com's so-called “one click” business method, cannot readily be approved.

It's harmonized – providing a more convenient and less-costly, one-stop shop for companies of all sizes, small to large, to receive protection.

It's transparent – enabling the broad dissemination of ideas underlying the CII, while at the same time rewarding those who have made a technical contribution by allowing them, for 20 years, to legally leverage, license and/or sell their innovative IP to the highest bidders.

It's fair – allowing all types of businesses and licensing models to take advantage of the CII.

The EC equates patents, such as those for CII, as being “powerful incentives” for Europeans “to engage in innovation and R&D.” A CII patent regime, as reflected in the Common Position, can boost R&D by incenting investment. It will spur otherwise anemic European private sector R&D investment, something which needs to occur for ICT innovation to truly prosper here.

Should the CII go through – should this incentive be available – industry will respond. Venture-capitalists will come, helping companies of all sizes find financing for novel inventions. Because CII and its IP can be adequately protected, innovation will have a better chance of blossoming in the EU, ultimately boosting productivity, consumer offerings, jobs and economic growth.

These benefits, however, will not materialize where an ethos of risk aversion undermines private sector R&D.

ICT thrives where IP is safe. CII patents provide that security. They make software/ICT development less risky, bringing inventors to the table so they can focus more on what they do best – innovate.

In all, the Common Position delivers on the Lisbon Agenda. As such, we urge its passage by Parliament. It will be an integral element toward making Europe the most competitive and knowledge-driven economy by 2010.