Unitary Patent System

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proposals by European Commission

Along with other organisations, such as FSFE that consider the latest proposals by the European Commission for a unitary patent system represent a poorly thought out blight on innovation, we have written to MEPs on the Legal Committee asking them to support suitable amendments when they meet to discuss the matter on 17.18 September 2012.

In its current form, the proposal for a unitary patent system would mean that Parliament hands control over an important part of Europe's innovation policy to the European Patent Organisation (EPO).

Granting sole jurisdiction over patent disputes to the EPO poses a grave risk to due process as it removes jurisdiction to a court outside the European legal system. The European Court of Justice has already issued an opinion (pdf) that this proposal is not compatible with European Law.

Under the guise of administrative convenience the system will lead to the extension of patentability of software in Europe through current practice of the EPO. This would be despite proposals being rejected under normal scrutiny and being contrary to both the letter and spirit of European Patent Convention, Article 52 (c).

The European Parliament has already rejected patents on software twice, 24 September 24th, 2003 and 6 July 2005. For the sake of Europe's IT economy.

In jurisdictions where patents are granted for pure software the problems arise from the quality of the patents being granted and the cost of challenging them. Patent litigation is a rich person's game leading to outcomes that were never intended by legislatures.

The complete text of the letter may be downloaded here (3 pages, pdf, approx 150kByte).