

## **AIPPI Special Committee Q132**

### **Computer Software, information networks, artificial intelligence and integrated circuits**

Annual report of Special Committee Q132 prepared for the  
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#### **1. 2010 activities**

Following 2009, during which two Amicus Briefs were submitted on behalf of AIPPI to the Enlarged Board of Appeal of the European Patent Office and to the US Supreme Court (2009 Activity Report), the Committee monitored the two expected decisions in the field of Computer Implemented Inventions and in the meantime, also started working on the project of elaboration of a glossary of terms. The Committee has also been involved in the preparation of a Workshop to be held in Paris, relating to the recent developments in the field of Computer Implemented Inventions.

##### **1.1. Opinion of the Enlarged Board of Appeal of the European Patent Office and decision of the US Supreme Court**

On May 12, 2010 the Enlarged Board of Appeal (EBA) of the European Patent Office (EPO) rendered its Decision in the case G3/08 concerning Computer Implemented Inventions (CII). The EBA concluded that the referral of the President of the EPO was inadmissible.

The EBA re-affirmed the EPO's current approach to examining the patentability of CII. Patent applications claiming computer implemented methods, computer programmes and storage media storing a computer programme are patentable provided that the claimed subject matter is inventive, where only features contributing to the technical character of the claimed subject-matter are taken into account for the assessment of inventive step. Patent applications with claims reciting only non-technical features, for example, pure "business methods", are not patentable.

The Board of the Committee presented a review of this decision in an Article published in AIPPI e-news No.13 ([https://www.aippi.org/enews/2010/edition13/opinion%20G3\\_08.html](https://www.aippi.org/enews/2010/edition13/opinion%20G3_08.html))

On June 28, 2010, the US Supreme Court's decision in re. Bilski vs. Kappos (Bilski) was published. The Supreme Court affirmed the lower court's decisions to reject the Bilski application. Furthermore, the Supreme Court affirmed that the "machine-or-transformation" test is not the sole test for determining whether a process claim encompasses patentable subject matter, but failed to provide guidance about what kind of business methods are patentable in the United States. In view of this decision, Examiners have been asked by the USPTO to begin their analysis with the "machine or transformation" test and, if the test is not passed, to invite applicants to show that the invention is not simply an "abstract idea".

This decision has for now not been commented by the Committee.

## **1.2. Glossary**

Two members of the Committee were in charge of conducting the preparation of a first part of a glossary of terms used by Offices and Courts in relation to computer implemented inventions. They made good progress by preparing an outline of this glossary and a first draft for a dozen of terms, and collecting comments and definitions from the other Committee members. A discussion about this Glossary has been planned during an internal meeting of the Committee to be held in Paris.

This task is still in progress.

## **1.3. Preparation of a Workshop in Paris**

Very early in the year, the Q132 Special Committee was requested by the Organising Committee of the Paris Congress to submit suggestions of speakers. Thanks to this very early request, the Board of the Committee was able to secure the participation of one of the judges of the Enlarged Board of Appeal involved in the opinion G03/08. The Committee further suggested US speakers to the Reporter General Team.

The Chair of the Committee was invited to participate as moderator of the two European and US speakers.

## **2. 2011 activities**

Due to the late arrival in 2010 of the European and US decisions, the task of the Special Committee to provide a guideline for patenting computer implemented inventions in Europe and in US has been postponed until 2011. It will be the main task of the Committee next year.

Further, the Committee will continue its work on the glossary of terms used by Offices and Courts in relation to computer implemented inventions.

These tasks will be conducted by the next President and Board of the Special Committee. It has been a great pleasure for me to chair the Committee during the last three years, which were highly prolific for the Computer Implemented Inventions domain and leading to numerous actions made on behalf of AIPPI in Europe and in the US. I express my thanks to the team who helped me perform this task and my wishes of success for the next Board.

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