PATENTS AND SOFTWARE

It is still a widespread misconception that computer software patents can not be granted in Europe.

This misconception has originated, at least in part, from information published by various organisations which has concentrated upon the language of the exclusion on patents for computer programs “as such” in Article 52 of the European Patent Convention.

This speech firstly defines what a computer implemented invention (CII) is. Then, by skimming through some Articles and Rules of the European Patent Convention, it clarifies under which conditions a computer implemented invention may give rise to a valid European patent.

The central part of the intervention is dedicated to investigate how a computer implemented invention is analysed by the European patent examiners in order to evaluate whether it owns the necessary requirements of novelty and inventive step.

Some basic decisions issued by the European Patent Office in the field of the computer implemented inventions will be commented upon, as well as some specific examples.

Last but not least, the possible ways of formulating the claims of a computer implemented invention will be presented in detail.

Final remarks about the recent EPO’s G3/08 decision concerning the CIIs conclude the intervention.