This is Dhiraj, student of law, having interest in IPR . I read through the guidelines for Computer Related Invention(CRI) and the idea which you have come is really appreciable. This stand of being neutral for both for and against software patenting surely is a welcoming one.

I would like to understand in detail certain factors which I believe would create some controversies in courts when implemented. The same is pointed out in numbered paragraphs.

1. Firstly, I can understand that the computer programme should be in combination with hardware features and also the hardware portion has to be something more than general-purpose machine.

What will be the case if the patented software program used along with a device was also used in a future date to general public machines?

Or

Whether it is mandatory that product and software cannot be separated?

(i) it amounts to infringement; or

(ii) Patent ceases to exist; or

(iii) Infringement only when both product and software are infringed together but still patentability to be upheld.

2. A board to be constituted (like CBDT in income Tax) to decide upon the patentability of the CRI from time to time as the subjected is unpredictable and the subject matter is such that it cannot be foreseen with certainty. The clear picture of the same is possible only in actual facts and circumstances where claims are being made.

3. Examples as to patentable may also be provided. For Example, Apple creating its own product and making programs that can be run only in Apple models (if the example is correct as intended or such other examples).

4. What if the claim comes within the ambit of both patentable and non-patentable subject matter. Eg. Mathamatical formulae used in the program so as to perform its function with a device (eg. Calculator or other device of such kind) or software with a tangible product used as a business method for doing business activities (eg. Projector).

5. Also I personally believe that literal interpretation of the software program under the patent regime would be fruitful rather than doctrine of equalence or pith and marrow which may be explicitly mentioned.

6. I also personally believe that the Act or the guidelines may clearly provide as to its protection from the angle of input or output or combination of both.

Thanks

Dhiraj