

Robert Bosch GmbH  
Postfach 30 02 20  
70442 Stuttgart  
Visitors:  
Wernerstraße 51  
70469 Stuttgart-Feuerbach  
Tel +49 711 811-0  
www.bosch.com

**Mr. B. P. Singh,**  
**Deputy Controller of**  
**Patents & Designs**  
( [birendrap.singh@nic.in](mailto:birendrap.singh@nic.in) )

Christoph Burbaum, C/IPE1  
Telephone +49(711)811-33142, Facsimile +49(711)811-33181  
[Christoph.Burbaum@de.bosch.com](mailto:Christoph.Burbaum@de.bosch.com)

18 July 2013

## **Guidelines for Examination of Computer Related Inventions (CRIs)**

Dear Mr. Singh,

We welcome the intention of the Indian Patent Office to prepare guidelines so as to foster uniformity and consistency in the examination of Computer Related Inventions (CRI). As one of the world's leading patent applicants, we value the enhancement of clarity and legal certainty that can be brought about by such guidelines.

We assume that India is not intending to exclude CRI completely from the protection by patents but is seeking a protection that is in harmony with the major patent offices worldwide. We feel, however, that the current draft version could and should be improved so as to better achieve these goals.

So far the guidelines shows only negative examples of application which were excluded under section 3(k). This might lead to the wrong impression that any invention which is related to "Information Technology" is excluded from the protection by patents. The guidelines would certainly benefit if positive examples of CRI that are not excluded under section 3(k) were also included.

Also, the flow charts that are shown in section 9 show only one possible outcome, which is "Not Patentable". We suggest adding to the flow chart of section 9 the possible outcome that the invention is patentable. Also, the content of the flow chart should be explained in more detail. In particular the



second flow chart teaches in step 2 to separate the 'Technical' and 'Non-Technical' features appearing in the claim, which resembles the approach established at the European Patent Office to determine whether an invention relates to a 'computer program as such' and which elements of a claim can be used for the assessment of inventive step. However, the flow chart aside, no information about this step is contained in the draft version of the guidelines.

18 July 2013

Page 2 of 2

The intention of section 5.4.6 of the guidelines is not clear to us. The wording of this section could be understood to mean that CRI are only patentable if interacting with a novel hardware. This would exclude huge technological fields like control and automation from the patent system. Examples in the automotive field are inventions relating to engine control or brake control (like controlling anti-lock brakes). They are highly innovative and have been patentable in all major jurisdictions around the globe for decades, despite not being linked to a novel device. Since they are tied to a specific device (e.g. the engine), we assume that section 5.4.6, is to be construed to imply that such inventions may meet the requirements of the law. However, this is not stated clearly and unambiguously in the current draft version.


We would therefore kindly suggest to add a specific example e.g. to section 5.4 that makes it clear that such CRI that disclose a novel and inventive method of controlling a specific device (like an engine) are not excluded under section 3(k), even if the specific device itself is already known in the prior art.

We fear that the guidelines in their current version will fall short of the proclaimed goals to foster uniformity and consistency. If however, the draft version is improved, specifically in the issues pointed out above, we are confident that they will provide a valuable contribution to the examination of CRI.

Yours sincerely

Robert Bosch GmbH

ppa. Joachim Bee  
(vice president)

  
i. V. Christoph Burbaum  
(vice president)