

# ***Software and Business Methods Patentability***

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# ***Introductory Remarks.***

## ***What Are We Talking About?***

### ***Notion of Software***

- Why Are Software Important?
- How to Encourage the Software Production?

### ***Notion of Business Methods***

- Are Business Methods Important (as software or databases)?
- Is the protection of business methods fostering the competition in the market?

### ***How to protect Software and Business Methods?***

- With IPRs, such as patents, petty patents, trade secret, copyright, trademarks

# Patent Protection on Software and Business Methods

- ***International Legal Framework***

Art. 27 TRIPs reference to « all the field of technology »

- ***The European Legal Framework***

- European Patent Convention: exclusion of patentability (out of the subject matter)

- EU Proposal of Directive on software patents (failure)

- ***The US Legal Framework***

# ***Main Features of Patent Protection***

- **Subject Matter:** invention
- **Access Requirements:**
  - Novelty (relative)
  - Non Obviousness (for the men skilled in the field)
  - Utility
  - (Public Order and Morality)
  - Disclosure Requirement (Best mode)
- **Content of Protection (exclusive economic rights + attribution)**
- **Limits to content of protection:**
  - Territorial protection only
  - Term of protection
  - exceptions and limitations
- **Subjects:** inventor v. applicant
- **Rights Management:** contracts

# ***Some Remarks on Software Patentability***

- **Access Requirements:**

1. Novelty – 2. Non Obviousness => petty patents or TS

## **Content of Protection:**

1. Cumulative protection – 2. Term – 3. Overlapping => Competition?

## **Balance with the other options:**

1. Copyright - 2. Open Source/Free Software

# Thank You!

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