



VIEWPOINT OF...  
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"Banks prepared to patent their ideas", by Jean-Eric  
Bousser*

*"Patentability of business methods and  
computer-implemented inventions: significant  
differences between European and American  
law"*

■ *Do Europe and the United States take the same  
approach to patents?*

Generally speaking, business methods and computer-implemented inventions can be patented in the United States but not in Europe, unless the object of the patent is not just a computer program as such and has a distinctive technical character, particularly in terms of the machine-code relationship. Of course, as for any patent, the object must meet the inventiveness criterion.

■ *What are the consequences of these differences?*

One significant consequence of these different approaches on either side of the Atlantic is that European companies entering into contractual relationship with customers resident in America may have problems if their activities, products or services are free to use in their domestic market but fall within the legal scope of valid patents in the United States. This can also apply to remote services, e.g. via the internet.

## ■ *Are we moving towards an American-style model?*

I would simply say that in our intangible economy it is natural for more and more innovations to have a software component and therefore for more patents of this type to be applied for. However, Europe is upholding its requirement for the technicality of the subject matter to be patented and remains opposed to the patentability of the sole intellectual aspects of business methods. Besides, after having gone through a very liberal phase in the late nineties, the US seem to become increasingly aware of the negative effects of excesses in this matter.

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