

UK Software Patents - Court of Appeal Decision in Symbian

Software inventions patentable in the UK where a technical contribution is present

Following a decision of the Court of Appeal (on 8 October 2008) the UK approach to considering the patentability of computer programs has become slightly more liberal.

A claim to a computer program should now be considered patentable if the claimed invention makes a technical contribution. Importantly, this now includes a computer program which makes a computer run faster or more reliably by solving a technical problem which exists in the computer itself.

It is accepted that there is no conclusive definition of “technical” and the Court of Appeal suggest that, at present, the concept is best understood by studying the relevant case law: *Vicom/ Computer-Related Invention T0208/84*, *IBM/Data Processor Network T06/83* and *IBM/Computer-related Invention T115/85*, *Gale’s Application [1991] RPC 305, 323*, and *Merrill Lynch’s Application [1989] RPC 561*.

The decision is a welcome move towards the approach of the European Patent Office, as it should now be easier to obtain patent protection for software inventions in the UK. However, it is expected that borderline cases will still be easier to prosecute before the EPO rather than the UKIPO.

The full *Symbian* Court of Appeal decision can be found at:
<http://www.bailii.org/ew/cases/EWCA/Civ/2008/1066.html>

Forresters have wide experience in the field of UK and European software patents, and have been successful in several important UK cases. Please do not hesitate to contact Alex Lockey (alockey@forresters.co.uk) or Lloyd Hoarton (lhoarton@forresters.co.uk) if you have any questions concerning the impact of this landmark decision or on software issues in general.