

To be submitted to the Taiwanese authorities through  
Taipei Office of the Interchange Association, Japan

January 16, 2008  
Okamoto, Chairperson  
Software Committee  
Japan Intellectual Property Association

Regarding the Taiwanese Examination Guidelines for Computer-Related Inventions  
(Draft)

Owing to the Examination Guidelines (draft) in question, it will become substantially possible to obtain rights that are equivalent to those granted for program inventions protected under Japanese law. Therefore, our committee agrees with this draft revision. We expect that programs will be prescribed in the future as one of the forms of inventions of products not only in the Taiwanese Examination Guidelines but also in the Patent Act of Taiwan, in the same manner as in Japanese law.

Although our opinion is as mentioned above, your kind consideration of the following two points would be sincerely appreciated.

1. Concerning handling of data structure-related inventions

Chapter 3.2.2 explains the way of stating a claim on a computer-readable recording medium. According to it, if the technical feature of a program or data structure recorded on a recording medium is that the program or data structure is read by a computer and then brings any processing into execution, it will be possible to state a recording medium claim.

In this regard, certainly, a data structure is specified only after it is recorded on any recording medium. However, as with other program products, it is easy to provide data of a certain structure through a network, and thus, a data structure seems to be an invention that should receive protection equivalent to that for a program product.

In the Examination Guidelines in question, only Chapter 3.2.2 provides an explanation of “data structure.” Therefore, at first glance, it can also be understood that a “data structure” cannot be specified as an invention without using a recording-medium type claim. We would like you to add to the Examination Guidelines a supplementary explanation to the effect that recording-medium type claims are not the only option.

Incidentally, under the Japanese Examination Guidelines, data structure-related inventions are claimed not only by recording-medium claims but also by other claims.

2. Concerning means-plus-function claims

The last paragraph of Chapter 3.3.2 states that “...it becomes unclear because of its undue breadth.” This phrase can be understood as meaning that it is not at all allowed to “connect a functional expression by using an open conjunction.”

We hope that this phrase will be revised to an expression such as “...it may become unclear because of its undue breadth,” or “...it often becomes unclear because of its undue breadth.”