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NOTE

from : Italian delegation
to : Police Cooperation Working Party

No. prev. doc.: 6715/99 ENFOPOL 19, OJ C 329, 4.11.1996, p. 1

Subject : Patent application for a telecommunications interception system PCT/EP96/01611
filed by the Dutch company KPN (Royal Dutch Telecom)

1. Introduction

At the meeting of the Police Cooperation Working Party in Brussels on 28 April 1999, the Netherlands delegation proposed discussion of the patent for an interception system obtained in the Netherlands by the Dutch company KPN. It was stressed that the scope of the patent was so wide and described in such terms that it covered the entire content of the EU Council Resolution of 17 January 1995, which describes in detail all the features which telecommunications interception systems must have if they are to be used by the police.

It will be remembered that the German Presidency drew attention to the fact that the company in question had filed a patent application with the European Patent Office (EPO) in Munich and that if it were granted with such a wide scope it would mean, for any other company introducing similar systems in the European sphere, an increase in costs as a result of the industrial property rights in question, with a knock-on effect on costs for the judicial and police authorities requiring the interception.

The conclusions reached involved the possibility of initiating opposition proceedings at the EPO and, to that end, delegations were to submit the Netherlands document to their own national experts for examination.

2. **Situation**

The Italian delegation has submitted the documentation in question to the experts of the Institute for Communications and Information Technology of the Italian Ministry of Communications. Detailed examination of the documentation shows that KPN has filed a patent application for a method, a system and devices for intercepting telecommunications which have many similarities with the methods, systems and devices currently produced and used in Italy and in existence before the date on which the patent application was filed (15 April 1996) as well as before the date on which a similar application was filed with the relevant Dutch patent office (27 April 1995).

The particular features of the invention, with the exception of the authentication procedure, which is described in detail, are described in very general terms in the application. They exist already in solutions adopted for automatic switching systems in the Italian telephone network. The Italian delegation is therefore able to assert, on the basis of supporting evidence, that the invention lacks novelty.

In fact, similar procedures were introduced as far back as 1992, on the instructions of the judicial authorities, by various Italian companies operating in the sector. The most original feature of the procedure, relating to authentication of the connection between the switchboard and the monitoring centre, has analogies with various authentication systems which have existed for some time in telephone systems, such as the GSM mobile phone system, for example.

For these reasons, the Institute of Communications and Information Technology of the Ministry of Communications considers that the "invention" does not have the required novelty and hopes that the relevant authorities will take steps to oppose the grant of the patent in question.

3. **Proposal**

In informing the Police Cooperation Working Party of its position, the Italian delegation hopes to stimulate broad discussion in the Working Party in order to determine whether other Member States have similar positions and to agree on a common strategy for opposing grant of the patent in question.
