

THE *Open* GROUP



Boundaryless Information Flow
Open Source in the Enterprise

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Boundaryless Information Flow – Open Source in the Enterprise

Open Source – The Legal Dimension

THE *Open* GROUP

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Open Source Licences – a definition

- ❑ An open source licence safeguards the rights of anyone, anywhere, for any purpose whatsoever, to use, copy, modify and distribute (sell or give away) the software, and to have the source code that makes those things possible.

- ❑ Full definition available at:
www.opensource.org/docs/definition.php

Approved Open Source Licences

- ❑ Open Source Initiative (OSI) has 45 approved licenses –
www.opensource.org/licenses/index.php
- ❑ OSI has to accept licenses that conform to the definition, but is trying to reduce the number of licenses in common usage
- ❑ However, some believe that existing licenses “aren’t good enough yet – not well written, not clear, not precise”

Larry Rosen of Rosenlaw.com

Approved Open Source Licences

- ❑ Classic licenses include General Public License (GPL), LGPL, BSD and MIT
- ❑ Mozilla Public License has become widely used since 1998
- ❑ Academic licenses: BSD, MIT, Apache, Academic Free License
- ❑ Reciprocal licenses: GPL, Open Software License
- ❑ Commercial Licenses: IBM, Sun, Apple, Nokia, Intel, Mozilla
- ❑ Standards and Testing Licenses: The Open Group, SISSL

Open Source Licensing

Approaches

- ❑ Licences take varying approaches, but are compatible
- ❑ GPL on the more restrictive side through to the BSD on the least restrictive side
- ❑ Some licences have reciprocity provisions – e.g. GPL, Open Software Licence

General Public Licence

- “Contamination/inheritance” issue
 - Section 2 (b) requires any program that contains or is derived from the Program to be licensed as a whole at no charge to all third parties under the terms of the GPL
 - Simply running a GPL-licensed program with proprietary software will NOT mean that the proprietary software needs to be available under the GPL
 - Modification is the key

What am I getting in to?

- Analogy with real estate/property – it's really important to know what is owned and by whom
 - With real estate, the protection is a thorough title search to determine if there are easements with pipes or sewers, for example
 - People should invest the same kind of wisdom and skills in getting to know the property they call software
 - It is incumbent on the buyer to figure out what the obligations are
 - WYSIWYG versus WYDSIWGY

Licensing Considerations

- ❑ What degree of freedom/restrictions does the licence grant/impose?
- ❑ Warranties?
- ❑ Trademarks?
- ❑ Dual licensing terms are possible
 - e.g. simultaneous GPL and proprietary – fear of GPL can be a revenue opportunity
 - Client software under open source license, with server software under proprietary license
- ❑ Treatment of patents?
 - Retaliation provision – different approaches

Summary

- ❑ Treat Open Source licensing terms seriously, BUT don't be afraid of them!
- ❑ Read the license as a lawyer, not as an engineer
- ❑ Open Source licensing does not have to mean GPL and associated reciprocity provisions
- ❑ Remember the real estate/property analogy