Getting the Right Licence

Open Source Deployment & Development
OSSWatch Inaugural Conference

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Planning

- What do we understand by 'open source'?
  - Open Source Definition ('OSI approved')
  - Over 40 licences certified by OSI
- Why do we want to go 'open source'?
  - Individual motivations
    - Altruism, Reputation gain, Talent signalling, New programming skills
  - Institutional motivations
    - Profit from participation, Benefit from larger talent pool/user base, Strategic motivations
- Copyleft or non-copyleft? Assuming there is a choice…

Types of Licences

- What kinds of licences are available?
  - OS Permissive– BSD/MIT/Apache (12%)
  - OS Persistent– LGPL (10%)
  - OS Persistent & Viral (inheritable) - GNU GPL (67%)
  - Restrictive - Commercial
  - Possibility of dual licensing – simultaneous use of open source and proprietary licences.

Source: Välimäki 2002, Välimäki & Oksanen 2003

Open Source - Permissive

- BSD/MIT/Apache
  - Free distribution
  - No limits on modification
    - Microsoft – BSD TCP/IP Stack – Windows – no release of source code. (Hawkins 2002)
  - Licence changes acceptable if © notice retained.
  - Not the same as, but largely indistinguishable in practice from, public domain software.

Open Source - Persistent

- LGPL
  - Free distribution
  - No limits on modification and licence change if bundled as a whole into a new work
  - Derivative works must be under LGPL or GPL

Open Source – Persistent & Viral

- GNU GPL
  - Free distribution
  - No limits on modification
  - All bundled and derivative works must be under GNU GPL.
- GNU GPL is incompatible with many other licences, unless all rights in the other works are waived in favour of GNU GPL ("Borg" property).
- This may be a problem with both restrictive <u>and</u> many company specific OSS licences.

Dual Licensing

- Use of both open source and proprietary licences for one product.

- Example - Sleepycat Software
  - BerkeleyDB (BDB) embedded database system
  - Sleepycat OSS licence permits usage of BDB in an app for redistribution for no charge, but source code for app must be available and freely distributable.
  - If developer does not want to release source code can buy proprietary licence from Sleepycat Software permitting use and redistribution in binary form.

Source: Välimäki 2002

Factors

- Who is the software aimed at?
  - End users, developers, 3rd parties
- Is a revenue stream needed?
  - Sales, support, hardware sales, internal use.
- Do you want to grant warranties?
  - The software is 'merchantable', or 'fit for a particular purpose'.
- If the software is well known do you want to protect your reputation rather than the code?
  - Trademark protection with/instead of copyright - Apache

Factors

- Protection of code or standards?
  - Modifications allowed if licensee agrees to comply with requirements set out by standards body.
- Dual licensing
  - Licence under GPL
  - Proprietary Licence for users/customers afraid of inheritance features of GPL
- Different licences for different parts of the software
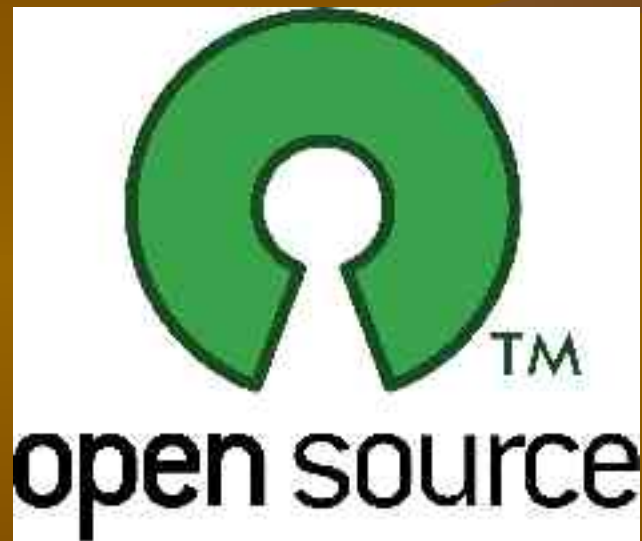 - Client software – MPL, server software – proprietary

Factors

- Software patents
  - Licensing of and protection against
  - GNU GPL and LGPL are incompatible with software patents
- If you choose OSS are you sure that your project leadership can be maintained?
  - Control of competing products and forks due to negative network externalities
- Protection of OSS supportive IPRs
  - Transfer of IPRs to non-profit foundation – single legal entity – easier to co-ordinate legal action.

Source: Rosen 2001, Hawkins 2002, Välimäki & Oksanen 2003

END

http://opensource.org/index.php