

Licencje, wolne oprogramowanie

M.Kutyłowski 2016

Open source definition

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<http://opensource.org>

Introduction

Open source **doesn't just mean access to the source code**. The **distribution terms** of open-source software must comply with the following criteria:

1. Free Redistribution

The license **shall not restrict** any party from selling or giving away the software **as a component** of an aggregate software distribution containing programs from several different sources. The license **shall not require a royalty or other fee** for such sale.

Rationale: By constraining the license to require free redistribution, we eliminate the temptation to throw away many long-term gains in order to make a few short-term sales dollars. If we didn't do this, there would be lots of pressure for cooperators to defect.

2. Source Code

The program **must include source code**, and must allow distribution in source code **as well as compiled form**. Where some form of a product is not distributed with source code, there must be a **well-publicized means of obtaining the source code for no more than a reasonable reproduction cost—preferably, downloading via the Internet without charge**.

2. Source Code

The source code must be the preferred form **in which a programmer would modify the program.** Deliberately **obfuscated** source code is not allowed. **Intermediate forms** such as the output of a preprocessor or translator are not allowed.

2. Source Code

Rationale: We require access to un-obfuscated source code because you can't evolve programs without modifying them. Since our purpose is to make evolution easy, we require that modification be made easy.

3. Derived Works

The license must **allow modifications and derived works, and must allow them to be distributed under the same terms** as the license of the original software.

Rationale: The mere ability to read source isn't enough to support independent peer review and rapid evolutionary selection. For rapid evolution to happen, people need to be able to experiment with and redistribute modifications.

4. Integrity of The Author's Source Code

The license **may restrict source-code from being distributed in modified form only if the license allows the distribution of "patch files" with the source code** for the purpose of modifying the program at build time.

The license must **explicitly permit distribution of software built from modified source code.**

The license **may require derived works to carry a different name or version number from the original software.**

4. Integrity of The Author's Source Code

Rationale: **Encouraging lots of improvement is a good thing, but users have a right to know who is responsible for the software they are using.** Authors and maintainers have reciprocal right to know what they're being asked to support and protect their reputations.

Accordingly, an open-source license must guarantee that source be readily available, but may require that it be distributed as pristine base sources plus patches. In this way, **"unofficial" changes can be made available but readily distinguished from the base source.**

5. No Discrimination Against Persons or Groups

The license must not discriminate against any person or group of persons.

Rationale: In order to get the maximum benefit from the process, the maximum diversity of persons and groups should be equally eligible to contribute to open sources. Therefore we forbid any open-source license from locking anybody out of the process.

Some countries, including the United States, have export restrictions for certain types of software. An OSD-conformant license may warn licensees of applicable restrictions and remind them that they are obliged to obey the law; however, it may not incorporate such restrictions itself.

6. No Discrimination Against Fields of Endeavor

The license **must not restrict anyone from making use of the program in a specific field of endeavor.** For example, it may not restrict the program from being used in a business, or from being used for genetic research.

Rationale: The major intention of this clause is to prohibit license traps that prevent open source from being used commercially. We want commercial users to join our community, not feel excluded from it.

7. Distribution of License

The rights attached to the program must apply to all to whom the program is redistributed without the need for execution of an additional license by those parties.

Rationale: This clause is intended to forbid closing up software by indirect means such as requiring a **non-disclosure** agreement.

8. License Must Not Be Specific to a Product

The rights attached to the program must not depend on the program's being part of a particular software distribution. If the program is extracted from that distribution and used or distributed within the terms of the program's license, all parties to whom the program is redistributed should have the same rights as those that are granted in conjunction with the original software distribution.

Rationale: This clause **forecloses yet another class of license traps.**

9. License Must Not Restrict Other Software

The license **must not place restrictions on other software that is distributed along with the licensed software.** For example, the license must not insist that all other programs distributed on the same medium must be open-source software.

10. License Must Be Technology-Neutral

No provision of the license may be predicated on any individual technology or style of interface.

Rationale: This provision is aimed specifically at licenses which require an explicit gesture of assent in order to establish a contract between licensor and licensee.

Provisions mandating so-called "click-wrap" may conflict with important methods of software distribution such as FTP download, CD-ROM anthologies, and web mirroring; such provisions may also hinder code re-use. Conformant licenses must allow for the possibility that (a) redistribution of the software will take place over non-Web channels that do not support click-wrapping of the download, and that (b) the covered code (or re-used portions of covered code) may run in a non-GUI environment that cannot support popup dialogues.

GPL

general public licence

Preamble

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c) Accompany it with the information you received as to the offer to distribute corresponding source code. (This alternative is allowed only for noncommercial distribution and only if you received the program in object code or executable form with such an offer, in accord with Subsection b above.)

The source code for a work means the preferred form of the work for making modifications to it.

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However, as a special exception, the source code distributed need not include anything that is normally distributed

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GPL a prawo autorskie

1. Program objęty ochroną nawet gdy tego nie chcemy
2. Prawa pracodawcy a pracownik używający GPL
3. Zgoda wszystkich współtwórców dzieła
4. Kolizje licencji (w Polsce: udzielenie różnych licencji możliwe)
5. Problem małoletnich przyjmujących licencję open source (mogą, jeśli darowizna nie wiąże się z zobowiązaniami), ale GPL nie dopuszcza ograniczenia zobowiązań
6. Dalsze udzielanie licencji (Polska: **gdy umowa tak stanowi ..**, ale umowy nie ma)

GPL a prawo polskie:

- **Zrzeczenie się majątkowych praw autorskich**
 - **Art. 18.3 nie pozwala nawet zrzec się prawa do wynagrodzenia**
 - **problem przyszłych pól eksploatacji**
 - **zrzeczenie byłoby odwoływalne wg GPL**
- **Jednostronna czynność prawna?**
 - **Ale GPL ustanawia stosunki między licencjodawcą a licencjobiorcą**
- **Koncepcja spółki cywilnej użytkowników programu GPL**