

Licencje, wolne oprogramowanie

Wykład 1 rok informatyki algorytmicznej

M.Kutyłowski 2023

Copyright: Politechnika Wrocławska

Open source – obiegowe opinie:

- „wolne oprogramowanie”, reszta to „niewola”**
- „możesz z nim robić to co chcesz”**
- „open source = dostęp do kodów źródłowych”**
- „open source = bezpłatne oprogramowanie”**

Open source – obiegowe opinie:

- „wolne oprogramowanie”, reszta to „niewola”
 - nie do końca prawda, używając open source tracisz część swoich praw i wolności
- „możesz z nim robić to co chcesz”
- „open source = dostęp do kodów źródłowych”
- „open source = bezpłatne oprogramowanie”

Open source – obiegowe opinie:

- „wolne oprogramowanie”, reszta to „niewola”
- „możesz z nim robić to co chcesz”
 - **nieprawda, licencja open source mówi co musisz robić a czego Ci nie wolno**
- „open source = dostęp do kodów źródłowych”
- „open source = bezpłatne oprogramowanie”

Open source – obiegowe opinie:

- „wolne oprogramowanie”, reszta to „niewola”
- „możesz z nim robić to co chcesz”
- „open source = dostęp do kodów źródłowych”
 - **prawdą jest to że w przypadku open source jest dostęp do kodów źródłowych, implikacja odwrotna jest fałszywa**
- „open source = bezpłatne oprogramowanie”

Open source – obiegowe opinie:

- „wolne oprogramowanie”, reszta to „niewola”
- „możesz z nim robić to co chcesz”
- „open source = dostęp do kodów źródłowych”
- „open source = **bezpłatne oprogramowanie**”
 - **nie każde oprogramowanie bezpłatne to open source**
 - **w przypadku open source nie płacisz opłat licencyjnych, ale .. płacisz w inny sposób: tracisz prawo do zapłaty za swoją pracę**

Open source definition

Copyright © 2006 by the Open Source Initiative

<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.

Licencja open source nie może zabraniać redystrybucji. Co więcej nie można za taki software pobierać opłat.

Motywacja: prawo do bezpłatnej redystrybucji eliminuje pokusy wprowadzenia opłat

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**.

Motywacja: dostępność kodów źródłowych ma zapewnić rzeczywistą możliwość modyfikacji i dalszego rozwoju programu przez innych

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.

Motywacja: kod źródłowy technicznie umożliwia modyfikacje. Triki takie jak obfuskacja są zabronione

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.

Cel: oprócz technicznej możliwości licencja daje prawo do modyfikacji

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.**

Znaczenie: czasami lepiej kontrolować modyfikacje. Inaczej trudno byłoby zawierzyć jakości i integralności produktów

5. No Discrimination Against Persons or Groups

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

Problem: co z ograniczeniami eksportowymi do ...

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.

Cel: wyeliminować często wprowadzane ograniczenia

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.

Cel: uniemożliwić np. triki przez 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.

Wykluczenie pułapki: konieczność stosowania innego programu (nie “wolnego”)

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.

**Możliwość dystrybucji open source wraz z innym oprogramowaniem.
Tak aby nie wykluczyć stosowania open source na “czysto open
sourcowych” platformach**

10. License Must Be Technology-Neutral

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

GPL

general public licence

Preamble

The licenses for most software are designed to take away your freedom to share and change it. By contrast, the GNU General Public License is intended to guarantee your freedom to share and change free software--to make sure the software is free for all its users. This General Public License applies to most of the Free Software Foundation's software and to any other program whose authors commit to using it. (Some other Free Software Foundation software is covered by the GNU Library General Public License instead.) You can apply it to your programs, too.



21.4

When we speak of **free software**, we are referring to **freedom**, not price.

Our General Public Licenses are designed to **make sure that you have the freedom to distribute copies of free software** (and charge for this service if you wish), that you receive source code or can get it if you want it, **that you can change the software or use pieces of it in new free programs**; and that you know you can do these things.

To protect your rights, we need to **make restrictions that forbid anyone to deny you these rights or to ask you to surrender the rights**. These restrictions translate to certain **responsibilities** for you if you distribute copies of the software, or if you modify it.

For example, if you distribute copies of such a program, whether gratis or for a fee, **you must give the recipients all the rights that you have**. You must make sure that they, too, receive or **can get the source code**. And you must show them these terms so they know their rights.

Finally, any free program is threatened constantly by software patents. We wish to avoid the danger that redistributors of a free program will individually obtain patent licenses, in effect making the program proprietary. To prevent this, we have made it clear that any patent must be licensed for everyone's free use or not licensed at all.

The precise terms and conditions for copying, distribution and modification follow.

Activities other than copying, distribution and modification are not covered by this License; they are outside its scope. The act of running the Program is not restricted, and the output from the Program is covered only if its contents constitute a work based on the Program (independent of having been made by running the Program). Whether that is true depends on what the Program does.

1. You **may copy and distribute verbatim** copies of the Program's source code as you receive it, in any medium, provided that you conspicuously and appropriately publish on each copy an **appropriate copyright notice and disclaimer of warranty; keep intact all the notices** that refer to this License and to the absence of any warranty; and give any other recipients of the Program a **copy of this License** along with the Program.

You may **charge a fee for the physical act of transferring a copy**, and you may at your option **offer warranty protection in exchange for a fee**.

– **Oplaty tylko za kopiowanie, dostarczenie, itp**

2. **You may modify your copy** or copies of the Program or any portion of it, thus forming a work based on the Program, and **copy and distribute such modifications or work** under the terms of Section 1 above, **provided that you also meet all of these conditions:**

- a) You must cause **the modified files to carry prominent notices stating that you changed** the files and the date of any change.
– **żadnych zmian niepostrzeżenie**
- b) **You must cause** any work that you distribute or publish, that **in whole or in part** contains or is derived from the Program or any part thereof, **to be licensed as a whole at no charge to all third parties under the terms of this License.**

– **zarażanie licencją GPL**

These requirements apply to the modified work as a whole. If identifiable sections of that work are not derived from the Program, and can be reasonably considered independent and separate works in themselves, then this License, and its terms, do not apply to those sections when you distribute them as separate works.

But when you distribute the same sections as part of a whole which is a work based on the Program, the distribution of the whole must be on the terms of this License, whose permissions for other licensees extend to the entire whole, and thus to each and every part regardless of who wrote it.

– można odrębne “niezarazone” fragmenty dystrybuować poza GPL

In addition, mere aggregation of another work not based on the Program with the Program (or with a work based on the Program) on a volume of a storage or distribution medium does not bring the other work under the scope of this License.

– tak samo wyjątek dla agregacji

3. You may copy and distribute the Program (or a work based on it, under Section 2) **in object code or executable** form under the terms of Sections 1 and 2 above provided that you also do one of the following:

a) **Accompany it with the complete corresponding machine-readable source code**, which must be distributed under the terms of Sections 1 and 2 above on a medium customarily used for software interchange; or,

– **nie można zablokować dostępu poprzez podanie jedynie kodu binarnego**

b) Accompany it with a **written offer, valid for at least three years, to give any third party, for a charge no more than your cost of physically performing source distribution, a complete machine-readable copy of the corresponding source code, to be distributed under the terms of Sections 1 and 2 above on a medium customarily used for software interchange; or,**

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.)

– inne opcje gwarantujące faktyczny dostęp do kodów źródłowych

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

For an executable work, complete source code means all the source code for all modules it contains, plus any associated interface definition files, plus the scripts used to control compilation and installation of the executable.

– nie można nawet ukryć poprzez zablokowanie kompilacji...

4. You may not copy, modify, sublicense, or distribute the Program except as expressly provided under this License. Any attempt otherwise to copy, modify, sublicense or distribute the Program is void, and will automatically terminate your rights under this License.

However, parties who have received copies, or rights, from you under this License will not have their licenses terminated so long as such parties remain in full compliance.

**– w tym miejscu GPL odbiera prawa autorom modyfikacji:
wszystko albo nic**

5. You are not required to accept this License, since you have not signed it. However, nothing else grants you permission to modify or distribute the Program or its derivative works.

These actions are prohibited by law if you do not accept this License. Therefore, by modifying or distributing the Program (or any work based on the Program), you indicate your acceptance of this License to do so, and all its terms and conditions for copying, distributing or modifying the Program or works based on it.

– poza GPL nie może być udzielona inna licencja

6. Each time you redistribute the Program (or any work based on the Program), the recipient automatically receives a license from the original licensor to copy, distribute or modify the Program subject to these terms and conditions.

You may not impose any further restrictions on the recipients' exercise of the rights granted herein.

You are not responsible for enforcing compliance by third parties to this License.

– tranzytywność licencji

7. If, as a consequence of a court judgment or allegation of patent infringement or for any other reason (not limited to patent issues), **conditions are imposed on you** (whether by court order, agreement or otherwise) that contradict the conditions of this License, **they do not excuse you from the conditions of this License.**

If you cannot distribute so as to satisfy simultaneously your obligations under this License and any other pertinent obligations, then as a consequence **you may not distribute the Program at all.** For example, if a patent license would not permit royalty-free redistribution of the Program by all those who receive copies directly or indirectly through you, then only way you could satisfy both it and this License would be to refrain entirely from distribution of the Program.

– jeśli lokalne prawo nakłada jakieś obowiązki (np zebranie opłaty 1 grosz/MB na Narodowy Fundusz Obrony Zdrowia albo opłacić jakiś patent, to licencji nie wolno udzielać

8. If the distribution and/or use of the Program is **restricted in certain countries either by patents or by copyrighted interfaces, the original copyright holder who places the Program under this License **may add an explicit geographical distribution limitation excluding those countries**, so that distribution is permitted only in or among countries not thus excluded. In such case, this License incorporates the limitation as if written in the body of this License.**

– np ograniczenia eksportowe USA

Wolne oprogramowanie a prawo autorskie

1. Program jest objęty ochroną nawet gdy tego nie chcemy.

Nie wpisanie autora: nic nie daje (prawa reprezentuje zbiorowa organizacja zarządzania prawami autorskimi i jest jeszcze gorzej)

Wyjątek: bardzo stare oprogramowanie, programy pisane przez Kosmitów, ...

Wolne oprogramowanie a prawo autorskie

1. Prawa pracodawcy a pracownik używający GPL

Pracownik może (nieświadomie lub celowo) zarazić produkt firmy licencją GPL. Dla firmy to może być olbrzymi problem.

Wolne oprogramowanie a prawo autorskie

3. Zgoda wszystkich współtwórców dzieła

Polskie prawo autorskie wymaga zgody wszystkich współautorów.
Jakakolwiek decyzja poza regułami zdefiniowanymi przez GPL efektywnie niemożliwa.

Wolne oprogramowanie a prawo autorskie

4. Kolizje licencji

w Polsce: udzielenie różnych licencji możliwe

Nie można tego zabronić pierwotnemu autorowi.

Wolne oprogramowanie a prawo autorskie

- 5. Problem małoletnich przyjmujących licencję open source**
 - **mogą, jeśli darowizna nie wiąże się z zobowiązaniami,**
 - **ale GPL oznacza zobowiązania a GPL nie dopuszcza ograniczenia zobowiązań**

Wolne oprogramowanie a prawo autorskie

6. Dalsze udzielanie licencji

Polska: *gdy umowa tak stanowi ..*, ale umowy w sensie przeniesienia praw majątkowych nie ma

Ale:

Prawo sobie a życie sobie....

**Ustawodawca nie znalazł rozwiązania by dostosować archaiczne
prawo do rzeczywistości**

**.. co nie wyklucza jednak kłopotów (np. Urzędy Skarbowe interpretujące
korzystanie z GPL jako korzyść, którą należy opodatkować)**