Licencje, wolne oprogramowanie
Wykład 1 rok informatyki algorytmicznej

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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

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:

open source definition

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

open source definition

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

open source definition

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.

open source definition

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")

open source definition

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

open source definition

10. License Must Be Technology-Neutral

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

open source definition

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.

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.

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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.

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   – **Opłaty 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**:

general public licence

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

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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 "niezarażone" fragmenty dystrybuować poza GPL

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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...

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

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– tranzytywność licencji

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– 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

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– np ograniczenia eksportowe USA

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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, …

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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.

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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.

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Wolne oprogramowanie a prawo autorskie

4. Kolizje licencji

w Polsce: udzielenie różnych licencji możliwe

Nie można tego zabronić pierwotnemu
   autorowi.

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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

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Wolne oprogramowanie a prawo autorskie

6. Dalsze udzielanie licencji

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

GPL a prawo polskie:

7. Zrzeczenie się majątkowych praw autorskich ?

W PL:

– Art. 18.3 nie pozwala nawet zrzec się prawa do wynagrodzenia

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)**

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