



Alternative Software Licensing

**FREE
&
OPEN SOURCE
SOFTWARE**

MVV59K Software Law

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2 | Mgr. Matěj Myška



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26.-28.11.10
8th International Conference
Masaryk University, Brno

REGISTRATION ENDS ON 10th November

4 | MOTTO



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“...open source licensing has become a widely used method of creative collaboration that serves to advance the arts and sciences in a manner and at a pace that few could have imagined just a few decades ago.”

Jacobsen v. Katzer, 535 F.3d 1373, 1378 (Fed. Cir. 2008).

5 | Outline



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- › What is NOT F/OSS?
- › What is F/OSS?
 - › Historical development
 - › Idea of F/OSS
 - › Key
- › Legal Aspects of F/OSS
- › Case studies

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- › Proprietary Software
- › Shareware
- › Freeware
- › Abandonware
- › Public Domain Software

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7 | Proprietary Soft



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- › “Traditional”
- › Non-free
- › Closed source code
- › Licensing (Lecture on 24th November)

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8 | Shareware



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- › Proprietary software
- › Business model
- › Trialware, demoware, added functionality (levels)

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9 | Freeware



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- › “Fully” copyrighted
 - › i.e. no modification, redistribution possible
- › Available for use at no cost or for an optional fee
- › No disclosure of source code

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10 | Public Domain Soft



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- › Disclaimed copyright
- › Not possible under Berne Convention
- › Quasi public domain Software
 - › After 70y – Free work

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11 | Abandonware



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- › Copyrighted software
- › Copyright infringement (!)
- › No enforcement
- › www.abandonia.com
- › *"When we become aware of these instances of piracy, we go to these sites and pursue our IP (intellectual property) rights," "It's not something we go after on a day-to-day basis, but if it's our IP, then it's our IP."*

Nancy Bushkin, (former) Infogrames
vice president of corporate communications

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12 | History I



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- › 1983: AT&T develops proprietary version of Unix
- › 1983: Richard Stallman - GNU Project
- › 1985: Free Software Foundation

"GNU's Not Unix!"

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13 | History II



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- › 1985: founding of the Free Software Foundation (FSF) www.fsf.org

- › 1989: first version of GNU General Public License (GPL)

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14 | Free Software



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- › *“Free as in free speech, not free as in free beer”*

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15 | The Idea of FS



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4 essential freedoms: [youtube.com/watch?v=uJi2rkHiNgg](https://www.youtube.com/watch?v=uJi2rkHiNgg)

- › run the program, for any purpose,
- › study how the program works (through access to the source code) and change it at will,
- › copy and share the program with others
- › share modifications with others

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16 | History III



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- › 1993: Linus Torvalds
 - › Linux kernel
 - › GPL

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17 | History IV



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- › 1997/1998: Eric S. Raymond: „*The Cathedral and the Bazaar*“
 - › Open Source Initiative
 - › www.opensource.org

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18 | Idea of OSS



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- › Business oriented
- › No ethical call
- › System of software development
 - › Cathedral
 - "carefully crafted by individual wizards or small bands of mages working in splendid isolation"
 - › Bazaar
 - "a great babbling bazaar of differing agendas and approaches."

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19 | The OSS Definition



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1. Free Redistribution
2. Source Code
3. Derived Works
4. Integrity of The Author's Source Code
5. No Discrimination Against Persons or Groups
6. No Discrimination Against Fields of Endeavor
7. Distribution of License
8. License Must Not Be Specific to a Product
9. License Must Not Restrict Other Software
10. License Must Be Technology-Neutral

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20 | Revenue streams



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- › Packaging and distribution
- › Offering a commercial alternative
 - › Multi-licencing
- › Services and support

<http://www.oss-watch.ac.uk/resources/businessofopensource>  WpyV
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21 | Legal Aspects



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- › Copyright
- › Licences
 - › Copyleft effect / Share-alike
- › Various types of licences
 - › opensource.org/licenses/alphabetical

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22 | Copyleft Effect



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- › GNU GPL v2.0
- › “Art. 2 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.”

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23 | Legal typology



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- › Strongly protective licences
 - › “viral licences”
 - › GNU General Public License
- › Weakly protective licences
 - › Lesser General Public License (LGPL)
- › Permissive licences
 - › Author’s crediting
 - › BSD License, MIT License

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24 | Legal Issues



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- › Enforceability
- › Technical Protection Measures (DRM)
- › Multi-licencing
- › Liability and Warranty Disclaimers
- › Copyright / Droit d’auteur

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25 | Future of FOSS



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› The Story of Success

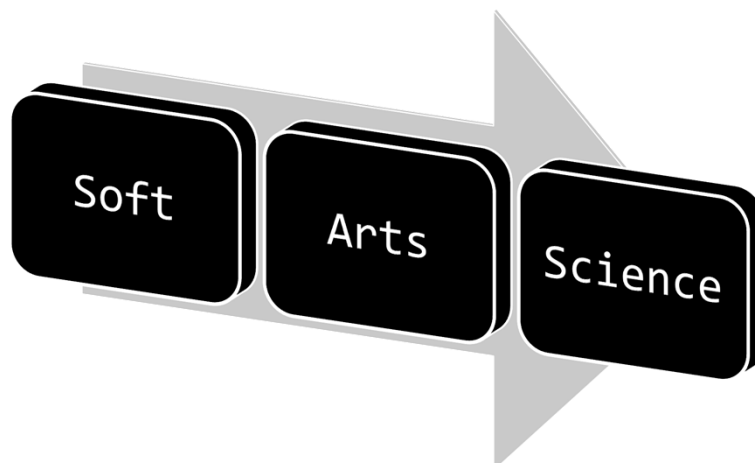
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26 | Open Content



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› Arts – Creative Commons

- › Lecture (Czech)
- › Právo ICT I – Wed 16.40 – 18.10
- › 24. 11. (in 3 weeks;)

› Science – Open Access

- › Open Access Workshop
- › Revue právo a technologie



Thank you for your attention!

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