Open Source Software Licenses and Legal Issues
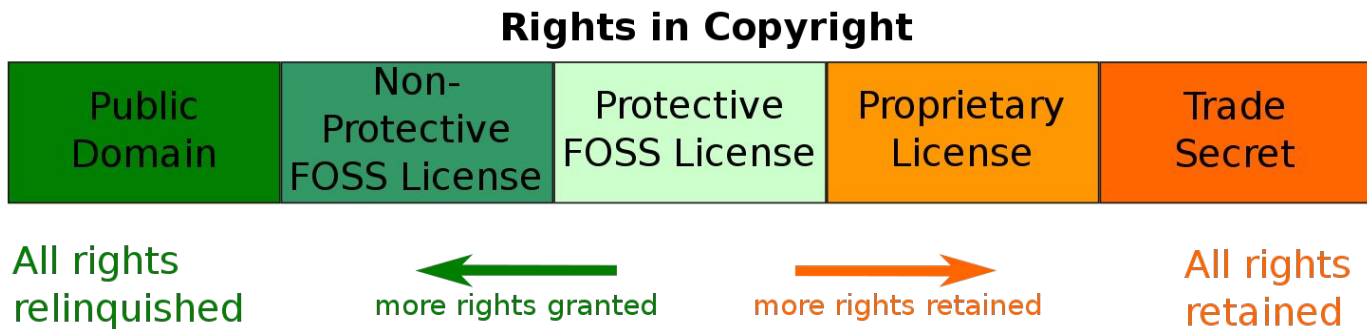
THE **LINUX** FOUNDATION

Restrictive vs Permissive Licensing

- There is an almost infinite variety of available open source licenses

- Choice should depend on both needs and philosophy

- Two basic categories:

  - **Restrictive licenses** - software remains open; strong limitations on any attempt to make proprietary closed products; changes to the code available to future recipients; e.g. GPL (a copyleft license)

  - **Permissive licenses** - don't require modifications and enhancements to be generally available; e.g. BSD and Apache license

Choosing a License

- Choosing the best license is a very important decision and requires careful thought
- Switching to a different license later during the life of the project can be difficult if not impossible (especially, if there are many contributors with rights)

Rights in Copyright

Public Domain	Non-Protective FOSS License	Protective FOSS License	Proprietary License	Trade Secret

All rights relinquished

← more rights granted

more rights retained →

All rights retained

Fear, Uncertainty and Doubt (FUD)

- First usage of the term Fear, Uncertainty and Doubt goes back as far as the 1920s; use of the acronymic form seems to date from the 1970s

- FUD means disseminating misinformation to influence recipients to avoid certain strategies, products or classes of products by appealing to fear

- Microsoft was widely accused of spreading FUD about Linux in the 1990s; in present day Microsoft has stopped doing so and it is actually employing OSS widely

FUD statement	Why it is not true
OSS is a virus	One has to be careful about respecting licenses but many prominent companies heave learned how to combine open and closed software in their offerings; there are companies and organizations dedicated to helping ensure this is done properly
OSS infringes on software and forces you to grant patent rights to others	Once again proper legal analysis is required
OSS products leave nowhere to turn when they break or to get technical help	Many open source products are supported by serious, long-living companies (such as Red Hat Enterprise Linux), as well as smaller organizations, plus there is a lot of freely available help online, and there are many consultants that can be hired (there is more competition available for such help than there would be with vendor lock-in on a product)
OSS requires a lot of legal help to avoid the above pitfalls and is thus very expensive	Even proprietary software requires significant legal analysis to properly avoid copyright and patent infringement, etc.; OSS is no different and not more expensive, and having all the software being available in source form expedites the auditing process.

Legal Issues

- Companies require interaction with lawyers, either on staff or external, to make sure they do not violate copyrights and licenses

- There are many kinds of licenses and one has to be careful, but once an organization develops proper reasonable procedures, it is just a standard part of any project

- Part of this is training the developers to understand the dos and don'ts of working with OSS