

Case Brief – *Open Source, Closed Eyes*

Case Title & Link

Open Source, Closed Eyes (Hocking College CYBR2100 Case Library)

Facts

- A developer incorporated GPL-licensed code into a proprietary tool.
 - The combined tool was distributed externally to customers.
 - GPL is a strong copyleft license, which requires derivative works to also be licensed under GPL.
 - The company did not release the source code for the combined proprietary + GPL work.
 - By distributing without compliance, the company violated GPL obligations to share code and license text.
 - The inclusion of GPL code created a derivative work, not just aggregation.
 - Customers were unaware GPL code was included, creating transparency and trust issues.
 - The company's legal team flagged the issue and asked for a remediation plan.
 - The organization lacked a clear policy or process for checking license compatibility before release.
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Issues

1. Does shipping the proprietary tool with GPL code count as distribution that triggers GPL obligations?
2. Did integrating GPL code into a proprietary tool create a derivative work that must follow GPL terms?

3. What obligations did the company trigger by distributing a proprietary tool that contained GPL code?
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Ethical Analysis

Using the duty and rights framework, the company had an obligation to respect the GPL license terms set by the original developers. The license represents the rights of contributors, and ignoring it disregards their ownership and conditions for use. Even if the company benefited in the short term by releasing the tool more quickly, they violated a clear duty to provide source code and follow the license terms. From this perspective, the ethical failure was not just a legal mistake but a lack of respect for the developers who created and shared the GPL code under specific conditions.

Legal/Policy Analysis

Under the GPL license, distributing a tool that incorporates GPL code triggers specific obligations. The combined work must be licensed under GPL, the complete corresponding source code must be provided, and the GPL license text and notices must be included. By shipping a proprietary binary with GPL code without meeting these obligations, the company failed to comply with GPL requirements. While internal use of GPL code would not have triggered these terms, external distribution created clear legal and policy responsibilities that were ignored.

Decision & Rationale

The best option for the company is to negotiate with the original GPL copyright holders for a different license or a dual-license arrangement. This would allow the company to keep its proprietary tool closed-source while still respecting the rights of the GPL contributors. The company's leadership, along with the legal and compliance teams, should take the lead on these negotiations. If successful, this solution balances legal compliance with ethical obligations and avoids the disruption of a complete rewrite or the business risk of fully open-sourcing the tool.

Alternatives Considered

- **Alternative 1: Replace the GPL code with MIT/Apache or in-house code**
 - *Pros:* Allows the company to maintain a proprietary license, avoids GPL obligations, reduces legal exposure once completed.

- *Cons:* Re-engineering is costly and time-consuming, could delay product delivery, and may reduce functionality in the short term.
 - **Alternative 2: Open source the entire tool under GPL**
 - *Pros:* Immediately compliant with GPL, builds goodwill with the open-source community, and demonstrates ethical respect for contributor rights.
 - *Cons:* Loses exclusivity over the product, risks impacting revenue if the tool is commercially sold, and may weaken the company's competitive advantage.
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References

Hocking College. (2025). *Week 3: IP, licensing & responsible disclosure* [Lecture slides]. CYBR-2100 Cyber Ethics and Cyber Law.

Free Software Foundation. (2007). *GNU General Public License, version 3*.
<https://www.gnu.org/licenses/gpl-3.0.html>

AI Use Note

I used ChatGPT as a structured writing partner. I provided the case scenario, lecture notes, and assignment template, then answered step-by-step questions to build out each section. The drafts were revised into my own words so the final brief reflects my understanding and writing style.