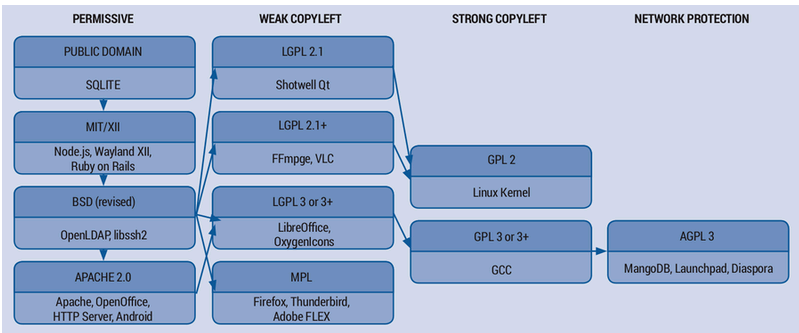


# Free-software license

A **free-software license** is a notice that grants the recipient of a piece of software extensive rights to modify and **redistribute** that software. These actions are usually prohibited by **copyright** law, but the rights-holder (usually the author) of a piece of software can remove these restrictions by accompanying the software with a **software license** which grants the recipient these rights. Software using such a license is free software (or **free and open-source software**) as conferred by the copyright holder. Free-software licenses are applied to **software** in **source code** and also binary **object-code** form, as the copyright law recognizes both forms.<sup>[2]</sup>



The free-software-licensing spectrum and some examples of programs under those licenses<sup>[1]</sup>

## Comparison

Types of software license and similar licenses. The highlighted columns are free software.

	Public domain & equivalents	Permissive license	Copyleft (protective license)	Noncommercial license	Proprietary license	Trade secret
Description	Grants all rights	Grants use rights, including right to relicense (allows <b>proprietaryization</b> , <b>license compatibility</b> )	Grants use rights, forbids <b>proprietaryization</b>	Grants rights for noncommercial use only. May be combined with copyleft.	Traditional use of <b>copyright</b> ; no rights need to be granted	No information is made public
Software	<b>Unlicense</b>	MIT, Apache, MPL	GPL, AGPL	JRL, AFPL	<b>proprietary software</b> , no public license	private, internal software
Other creative works	PD, <b>CC0</b>	<b>CC BY</b>	<b>CC BY-SA</b>	<b>CC BY-NC</b>	<b>Copyright</b> , no public license	unpublished

Free-software licenses provide risk mitigation against different legal threats or behaviors that are seen as potentially harmful by developers:

#### Frequently used protective and permissive licenses

	AGPLv3	GPLv3	GPLv2	LGPLv3	LGPLv2.1	MPL-2	BSD
<a href="#">SaaS/cloud</a>	Yes	No	No	No	No	No	No
<a href="#">Tivoization</a>	Yes	Yes	No	Yes	No	No	No
<a href="#">Patent trolling</a>	Yes	Yes	No	Yes	No	No	No
<b>Proprietization</b>	Yes	Yes	Yes	Partial	Partial	Partial	No
<b>Granularity / reach</b>	Project	Project	Project	Library	Library	File	—
<b>Trademark grant</b>	Yes	Yes	?	Yes	?	No	No

## History

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### Pre-1980s

In the early times of software, sharing of software and source code was common in certain communities, for instance academic institutions. Before the US Commission on New Technological Uses of Copyrighted Works (CONTU) decided in 1974 that "computer programs, to the extent that they embody an author's original creation, are proper subject matter of copyright",<sup>[3][4]</sup> software was not considered copyrightable. Therefore, software had no licenses attached and was shared as [public-domain software](#). The CONTU decision plus court decisions such as [Apple v. Franklin](#) in 1983 for [object code](#), clarified that the Copyright Act gave computer programs the copyright status of literary works and started the [licensing of software](#).

Free-software licenses before the late 1980s were generally informal notices written by the developers themselves. These early licenses were of the "[permissive](#)" kind.

### 1980s

In the mid-1980s, the [GNU project](#) produced [copyleft](#) free-software licenses for each of its software packages. An early such license (the "GNU Emacs Copying Permission Notice") was used for [GNU Emacs](#) in 1985,<sup>[5]</sup> which was revised into the "GNU Emacs General Public License" in late 1985, and clarified in March 1987 and February 1988.<sup>[6][7][8]</sup> Likewise, the similar GCC General Public License was applied to the [GNU Compiler Collection](#), which was initially published in 1987.<sup>[9][10]</sup> The [original BSD license](#) is also one of the first free-software licenses, dating to 1988. In 1989, version 1 of the

[GNU General Public License](#) (GPL) was published. Version 2 of the GPL, released in 1991, went on to become the most widely used free-software license.<sup>[11][12][13]</sup>

## 1990s to 2000s

Starting in the mid-1990s and until the mid-2000s, the [open-source](#) movement pushed and focused the free-software idea forward in the wider public and business perception.<sup>[14]</sup> In the [Dot-com bubble](#) time, [Netscape Communications'](#) step to release its webbrowser under a FOSS license in 1998,<sup>[15][16]</sup> inspired many other companies to adapt to the FOSS ecosystem.<sup>[17]</sup> In this trend companies and new projects ([Mozilla](#), [Apache foundation](#), and [Sun](#), see also [this list](#)) wrote their own FOSS licenses, or adapted existing licenses. This [License proliferation](#) was later recognized as problem for the [Free and open-source](#) ecosystem due to the increased complexity of [license compatibility](#) considerations.<sup>[18]</sup> While the creation of new licenses slowed down later, license proliferation and its impact are considered an ongoing serious challenge for the free and open-source ecosystem.

From the free-software licenses, the GNU GPL version 2 has been tested in to court, first in Germany in 2004 and later in the US. In the German case the judge did not explicitly discuss the validity of the GPL's clauses but accepted that the GPL had to be adhered to: "If the GPL were not agreed upon by the parties, defendant would notwithstanding lack the necessary rights to copy, distribute, and make the software 'netfilter/iptables' publicly available." Because the defendant did not comply with the GPL, it had to cease use of the software.<sup>[19]</sup> The US case ([MySQL](#) vs Progress) was settled before a verdict was arrived at, but at an initial hearing, Judge Saris "saw no reason" that the GPL would not be enforceable.<sup>[20]</sup>

Around 2004 lawyer [Lawrence Rosen](#) argued in the essay *Why the public domain isn't a license* software could not truly be waived into public domain and can't be interpreted as very permissive FOSS license,<sup>[21]</sup> a position which faced opposition by [Daniel J. Bernstein](#) and others.<sup>[22]</sup> In 2012 the dispute was finally resolved when Rosen accepted the [CC0](#) as [open source license](#), while admitting that contrary to his previous claims copyright can be waived away, backed by [Ninth circuit](#) decisions.<sup>[23]</sup>

In 2007, after years of draft discussion, the GPLv3 as major update of the GPLv2 was released. The release was controversial<sup>[24]</sup> due to the significant extended scope of the license, which made it incompatible with the GPLv2.<sup>[25]</sup> Several major FOSS projects ([Linux kernel](#),<sup>[26][27]</sup> [MySQL](#),<sup>[28]</sup> [BusyBox](#),<sup>[29][30]</sup> [Blender](#),<sup>[31]</sup> [VLC media player](#)<sup>[32]</sup>) decided against adopting the GPLv3. On the other hand, in 2009, two years after the release of the GPLv3, [Google](#) open-source programs office

manager Chris DiBona reported that the number of open-source projects licensed software that had moved to GPLv3 from GPLv2 was 50%, counting the projects hosted at [Google Code](#).<sup>[33]</sup>

## 2010s

In 2011, four years after the release of the GPLv3, 6.5% of all open-source licensed projects were GPLv3 while 42.5% were still GPLv2 according to Black Duck Software data.<sup>[27][34]</sup> Following in 2011 *451 Group* analyst Matthew Aslett argued in a blog post that copyleft licenses went into decline and permissive licenses increased, based on statistics from Black Duck Software.<sup>[35][36]</sup>

In 2015 according to Black Duck Software<sup>[37]</sup> and [GitHub](#) statistics,<sup>[38]</sup> the permissive [MIT license](#) dethroned the GPLv2 as most popular free-software license to the second place while the permissive [Apache license](#) follows already at third place. In June 2016 an analysis of [Fedora Project](#)'s packages revealed as most used licenses the GPL, MIT, BSD, and the [LGPL](#).<sup>[39]</sup>

## Definitions

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### OSI-approved open-source licenses

The group [Open Source Initiative](#) (OSI) defines and maintains a list of approved [open-source licenses](#). OSI agrees with FSF on all widely used free-software licenses, but differ from FSF's list, as it approves against the [Open Source Definition](#) rather than the [Free Software Definition](#). It considers Free Software Permissive license group to be a reference implementation of a Free Software license. Thus its requirements for approving licenses are different.

### FSF-approved free-software licenses

The [Free Software Foundation](#), the group that maintains the [Free Software Definition](#), maintains a non-exhaustive list of free-software licences.<sup>[40]</sup>

The Free Software Foundation prefers [copyleft](#) ([share-alike](#)) free-software licensing rather than permissive free-software licensing for most purposes. Its list distinguishes between free-software licenses that are compatible or incompatible with the FSF's copyleft [GNU General Public License](#).

# Conditions in free-software licenses

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There exists an ongoing debate within the [free-software community](#) regarding the fine line between what restrictions can be applied and still be called "free".

Only "[public-domain software](#)" and software under a [public-domain-like license](#) is restriction-free. Examples of public-domain-like licenses are, for instance, the [WTFPL](#) and the [CC0](#) license.

[Permissive licenses](#) might carry small obligations like [attribution](#) of the author but allow practically all code use cases. Certain licenses, namely the [copyleft licenses](#), include intentionally stronger restrictions (especially on the distribution/distributor) in order to force derived projects to guarantee specific rights which can't be taken away.

## Copyleft

The free-software share-alike licenses written by [Richard Stallman](#) in the mid-1980s pioneered a concept known as "copyleft". Ensuing copyleft provisions stated that when modified versions of free software are distributed, they must be distributed under the same terms as the original software. Hence they are referred to as "share and [share alike](#)" or "*quid pro quo*". This results in the new software being open source as well. Since copyleft ensures that later generations of the software grant the freedom to modify the code, this is "free software". Non-copyleft licenses do not ensure that later generations of the software will remain free.

Developers who use GPL code in their product must make the [source code](#) available to anyone when they share or sell the [object code](#). In this case, the source code must also contain any changes the developers may have made. If GPL code is used but not shared or sold, the code is not required to be made available and any changes may remain private. This permits developers and organizations to use and modify GPL code for private purposes (that is, when the code or the project is not sold or otherwise shared) without being required to make their changes available to the public.

Supporters of GPL claim that by mandating that derivative works remain under the GPL, it fosters the growth of free software and requires equal participation by all users. Opponents of GPL claim<sup>[41]</sup> that "no license can guarantee future software availability" and that the disadvantages of GPL outweigh<sup>[42]</sup> its advantages. Some also argue that restricting distribution makes the license less free. Whereas proponents would argue that not preserving freedom during distribution would make it less free. For example, a non-copyleft license does not grant the author the freedom to see

modified versions of his or her work if it gets publicly published, whereas a copyleft license does grant that freedom.

## Patent retaliation

During the 1990s, free-software licenses began including clauses, such as [patent retaliation](#), in order to protect against [software patent](#) litigation cases – a problem which had not previously existed. This new threat was one of the reasons for writing version 3 of the GNU GPL in 2006.<sup>[43]</sup> In recent years, a term coined [tivoization](#) describes a process where hardware restrictions are used to prevent users from running modified versions of the software on that hardware, in which the [TiVo](#) device is an example. It is viewed by the FSF as a way to turn free software to effectively non-free, and is why they have chosen to prohibit it in [GPLv3](#).<sup>[44]</sup> Most newly written free-software licenses since the late 1990s include some form of patent retaliation clauses. These measures stipulate that one's rights under the license (such as to redistribution), may be terminated if one attempts to enforce patents relating to the licensed software, under certain circumstances. As an example, the [Apple Public Source License](#) may terminate a user's rights if said user embarks on litigation proceedings against them due to patent litigation. Patent retaliation emerged in response to proliferation and abuse of [software patents](#).

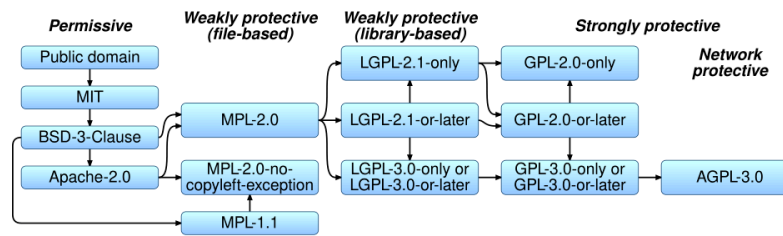
## Attribution, disclaimers and notices

The majority of free-software licenses require that modified software not claim to be unmodified. Some licenses also require that copyright holders be credited. One such example is version 2 of the GNU GPL, which requires that interactive programs that print warranty or license information, may not have these notices removed from modified versions intended for distribution.



# Practical problems with licenses

## License compatibility



License compatibility between common [FOSS software licenses](#) according to David A. Wheeler (2007): the vector arrows denote a one directional compatibility, therefore better compatibility on the left side ("permissive licenses") than on the right side ("copyleft licenses").<sup>[45]</sup>

Licenses of software packages containing contradictory requirements render it impossible to combine source code from such packages in order to create new software packages.<sup>[46]</sup> License compatibility between a [copyleft license](#) and another license is often only a one-way compatibility.<sup>[47]</sup> This "one-way compatibility" characteristic is, for instance, criticized by the [Apache Foundation](#), who provides the more [permissive Apache license](#) which doesn't have this characteristic.<sup>[48]</sup> Non-copyleft licenses, such as the FOSS [permissive licenses](#), have a less complicated license interaction and normally exhibit better license compatibility.<sup>[49][50]</sup> For example, if one license says "modified versions must mention the developers in any advertising materials", and another license says "modified versions cannot contain additional attribution requirements", then, if someone combined a software package which uses one license with a software package which uses the other, it would be impossible to distribute the combination because these contradictory requirements cannot be fulfilled simultaneously. Thus, these two packages would be license-incompatible. When it comes to [copyleft](#) software licenses, they are not inherently compatible with other copyleft licenses, even the GPLv2 is, by itself, not compatible with the GPLv3.<sup>[25][51]</sup>

## Purpose of use

Restrictions on use of a software ("use restrictions") are generally unacceptable according to the FSF, [OSI](#), [Debian](#), or the BSD-based distributions. Examples include prohibiting that the software be used for non-private applications, for military purposes, for comparison or benchmarking, for good use, for ethically questionable means,<sup>[52]</sup> or in commercial organizations.<sup>[53]</sup> While some restrictions on user freedom, e.g. concerning nuclear war, seem to enjoy moral support among most free

software developers,<sup>[54]</sup> it is generally believed that such agendas should not be served through software licenses; among other things because of practical aspects such as resulting legal uncertainties and problems with enforceability of vague, broad and/or subjective criteria or because tool makers are generally not held responsible for other people's use of their tools. Nevertheless some projects include legally non-binding pleas to the user, prominently [SQLite](#).<sup>[55]</sup> Among the repeated attempts<sup>[56][57][58]</sup> by developers to regulate user behavior through the license that sparked wider debate are [Douglas Crockford](#)'s (joking) “no evil” clause, which affected the release process of the Debian distribution in 2012<sup>[59]</sup> and got the JSMin-PHP project expelled from [Google Code](#),<sup>[60]</sup> the addition of a pacifist condition based on [Asimov's First Law of Robotics](#) to the GPL for the distributed computing software *GPU* in 2005,<sup>[61]</sup> as well as several software projects trying to exclude use by big cloud providers.<sup>[62][63]</sup>

## Definition conflicts

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As there are several defining organizations and groups who publish definitions and guidelines about FOSS licenses, notably the FSF, the OSI, the Debian project, and the BSDs, there are sometimes conflicting opinions and interpretations.

### Permissive versus copyleft opinions

Many users and developers of [BSD](#)-based operating systems have a different position on licensing. The main difference is the belief that the [copyleft](#) licenses, particularly the [GNU General Public License](#) (GPL), are undesirably complicated and/or restrictive.<sup>[64]</sup> The GPL requires any derivative work to also be released according to the GPL while the [BSD license](#) does not. Essentially, the BSD license's only requirement is to acknowledge the original authors, and poses no restrictions on how the [source code](#) may be used.

As a result, BSD code can be used in [proprietary software](#) that only acknowledges the authors. For instance, [Microsoft Windows NT 3.1](#) and [macOS](#) have proprietary [IP stacks](#) which are derived from BSD-licensed software.<sup>[65]</sup> In extreme cases, the sub- or re-licensing possibilities with BSD or other permissive licenses might prevent further use in the open-source ecosystem. For instance, [MathWorks](#)' FileExchange repository offers the BSD license for user contributions but prevents with additional [terms of use](#) any usage beside their own [proprietary MATLAB](#) software, for instance with the FOSS [GNU Octave](#) software.<sup>[66][67][68]</sup>

Supporters of the BSD license argue that it is more free than the GPL because it grants the right to do anything with the source code, provided that the attribution is preserved. The approach has led to



BSD code being used in widely used proprietary software. Proponents of the GPL point out that once code becomes proprietary, users are denied the freedoms that define free software.<sup>[69]</sup> As a result, they consider the BSD license less free than the GPL, and that freedom is more than a lack of restriction. Since the BSD license restricts the right of developers to have changes recontributed to the community, neither it nor the GPL is "free" in the sense of "lacking any restrictions."

## Debian

The [Debian](#) project uses the criteria laid out in its [Debian Free Software Guidelines](#) (DFSG). The only notable cases where Debian and Free Software Foundation disagree are over the [Artistic License](#) and the [GNU Free Documentation License](#) (GFDL). Debian accepts the original Artistic License as being a free software license, but FSF disagrees. This has very little impact however since the Artistic License is almost always used in a [dual-license](#) setup, along with the [GNU General Public License](#).

## Controversial borderline cases

The vast majority of free software uses undisputed free-software licenses; however, there have been many debates over whether or not certain other licenses qualify for the definition.

Examples of licenses that provoked debate were the 1.x series of the [Apple Public Source License](#), which were accepted by the Open Source Initiative but not by the Free Software Foundation or Debian and the [RealNetworks Public Source License](#), which was accepted by Open Source Initiative and Free Software Foundation but not by [Debian](#).

Also, the FSF recommended [GNU Free Documentation License](#),<sup>[70]</sup> which is incompatible with the GPL,<sup>[71]</sup> was considered "non-free" by the [Debian](#) project around 2006,<sup>[72]</sup> Nathanael Nerode,<sup>[73]</sup> and [Bruce Perens](#).<sup>[74]</sup> The FSF argues that documentation is qualitatively different from software and is subject to different requirements. Debian accepted, in a later resolution, that the GNU FDL complied with the [Debian Free Software Guidelines](#) when the controversial "[invariant section](#)" is removed, but considers it "still not free of trouble".<sup>[75]</sup> Notwithstanding, most GNU documentation includes "invariant sections". Similarly, the [FLOSS Manuals](#) foundation, an organization devoted to creating manuals for free software, decided to eschew the GFDL in favor of the GPL for its texts in 2007, citing the incompatibility between the two, difficulties in implementing the GFDL, and the fact that the GFDL "does not allow for easy duplication and modification", especially for digital documentation.<sup>[76]</sup>

[SLUC](#) is a software license published in Spain in December 2006 to allow all but military use. The writers of the license maintain it is free software, but the Free Software Foundation says it is not free because it infringes the so-called "zero freedom" of the GPL, that is, the freedom to use the software for any purpose.<sup>[77]</sup>

## Market share

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While historically the most widely used [FOSS](#) license has been the GPLv2, in 2015, according to Black Duck Software<sup>[37]</sup> the permissive [MIT license](#) dethroned the GPLv2 to the second place while the permissive [Apache License](#) follows at third place. A study from 2012, which used publicly available data, criticized Black Duck Software for not publishing their methodology used in collecting statistics.<sup>[78]</sup> Daniel German, professor in the Department of Computer Science at the [University of Victoria](#) in Canada, presented a talk in 2013 about the methodological challenges in determining which are the most widely used free-software licenses, and showed how he could not replicate the result from Black Duck Software.<sup>[79]</sup>

A [GitHub](#) study in 2015 on their statistical data found that the MIT license was the most prominent FOSS license on that platform.<sup>[38]</sup>

In June 2016 an analysis of the [Fedora Project](#)'s packages showed as most used licenses the GPL family, followed by MIT, BSD, the LGPL family, Artistic (for Perl packages), LPPL (for [texlive](#) packages), and ASL. The GNU GPLv2+ was the single most popular license<sup>[39]</sup>

## See also

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- [Comparison of free and open-source software licenses](#)
- [Developer Certificate of Origin](#)
- [End-user license agreement](#)
- [License-free software](#)
- [List of free-content licences](#)
- [Public domain](#)
- [Software license](#)



## Notes

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## External links

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- The Free Software Definition (<https://www.gnu.org/philosophy/free-sw.html>) , by the Free Software Foundation.
- The Free Software Foundation's list of free and non-free licenses (<https://web.archive.org/web/20000815065020/https://www.gnu.org/philosophy/license-list.html>)
- Debian's license information page (<http://www.debian.org/legal/licenses/>)
- Open Source Initiative's list of licenses (<http://www.opensource.org/licenses/>)
- Understanding Open Source and Free Software Licensing (<https://www.oreilly.com/library/view/understanding-open-source/0596005814/>) , by Andrew M. St. Laurent
- A 45-page licensing primer (<http://www.softwarefreedom.org/resources/2008/foss-primer.html>) by Software Freedom Law Center