

# **LEGAL IMPLICATION OF OPEN-SOURCE SOFTWARE TO COMPANIES AND DEVELOPERS**

## **ABSTRACT:**

*Open source distribution deals majorly with license, the type of license one has over a particular software or source code determines the extent of right to be exercised towards the software or source code. For your software to truly be open source, you'll need to license it so that others are free to use, change, and distribute the software. A software license tells others what they can and can't do with your source code, so it's important to make an informed decision.*

## **INTRODUCTION:**

Open source software (OSS) is software that is distributed with its source code, making it available for use, modification, and distribution with its original rights. Source code is the part of software that most computer users don't ever see; it's the code computer programmers manipulate to control how a program or application behaves. Programmers who have access to source code can change a program by adding to it, changing it, or fixing parts of it that aren't working properly. OSS typically includes a license that allows programmers to modify the software to best fit their needs and control how the software can be distributed<sup>1</sup>.

Due to the prosperous development and application of the Internet, more and more people can participate in the development and editing of open source software through online collaboration tools, and because the development of open source software is participated by a multitude of people, the speed of open source software optimization and innovation is sometimes even faster than that of commercial software developed by ordinary enterprises. In recent years, more and more software companies, such as Apple and Microsoft, have opened up the source code of their underlying technologies in order to save their own development costs and widen the application of their products. According to Sonatype's Software Supply Chain Status Report 2020, over 1.5 trillion open source

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<sup>1</sup> [synopsys.com/glossary/what-is-open-source-software.html](https://synopsys.com/glossary/what-is-open-source-software.html)

software components and software units have been requested for download by developers worldwide in 2020, demonstrating the current high usage of open source software<sup>2</sup>.

## **Licensing And Open Source:**

Open source distribution deals majorly with license, the type of license one has over a particular software or source code determines the extent of right to be exercised towards the software or source code. For your software to truly be open source, you'll need to license it so that others are free to use, change, and distribute the software. A software license tells others what they can and can't do with your source code, so it's important to make an informed decision.

You're under no obligation to choose a license. However, without a license, the default copyright laws apply, meaning that you retain all rights to your source code and no one may reproduce, distribute, or create derivative works from your work.

## **Common types of open source licenses:**

There are many types of open source software licenses, and they are classified according to the “degree of freedom to modify and release the program” (also called the “copyleft” effect). Currently, common open source software license agreements may be roughly categorized based on their copyleft effect as follows:

### **GPL type license agreement:**

The GNU General Public License (GNU GPL or simply GPL) is a series of widely used free software licenses that guarantee end users the four freedoms to run, study, share, and modify the software. The license was the first copyleft for general use and were originally written by the founder of the Free Software Foundation (FSF), Richard Stallman, for the GNU Project. The license grant the recipients of a computer program the rights of the Free Software Definition. These GPL series are all copyleft licenses, which means that any derivative work must be distributed under the same or equivalent license terms. It is more restrictive than the Lesser General Public License and even further distinct from the more widely used permissive software licenses.

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2 Lee Tsai & Partners, Legal issues companies should be aware of when using opensource

Historically, the GPL license family has been one of the most popular software licenses in the free and open-source software domain. Prominent free software programs licensed under the GPL include the Linux kernel and the GNU Compiler Collection (GCC). David A. Wheeler argues that the copyleft provided by the GPL was crucial to the success of Linux-based systems, giving the programmers who contributed to the kernel the assurance that their work would benefit the whole world and remain free, rather than being exploited by software companies that would not have to give anything back to the community.

In 2007, the third version of the license (GPLv3) was released to address some perceived problems with the second version (GPLv2) which were discovered during the latter's long-time usage. To keep the license up to date, the GPL license includes an optional "any later version" clause, allowing users to choose between the original terms or the terms in new versions as updated by the FSF. Developers can omit it when licensing their software; the Linux kernel, for instance, is licensed under GPLv2 without the "any later version" clause<sup>3</sup>.

### **MPL type license agreement:**

The **Mozilla Public License (MPL)** is a free and open-source weak copyleft license for most Mozilla Foundation software such as Firefox and Thunderbird. The MPL license is developed and maintained by Mozilla, which seeks to balance the concerns of both open-source and proprietary developers; it is distinguished from others as a middle ground between the permissive software BSD-style licenses and the General Public License. So under the terms of the MPL, it allows the integration of MPL-licensed code into proprietary codebases, but only on condition those components remain accessible.

MPL has been used by others, such as Adobe to license their Flex product line, and The Document Foundation to license LibreOffice 4.0 (also on LGPL 3+). Version 1.1 was adapted by several projects to form derivative licenses like Sun Micro systems' Common Development and Distribution License. It has undergone two revisions: the minor update 1.1, and a major update version 2.0 nearing the goals of greater simplicity and better compatibility with other licenses<sup>4</sup>

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3 [wiki/GNU\\_General\\_Public\\_License](#)

4 [wiki/Mozilla\\_Public\\_License](#)

## **BSD License agreement:**

The *BSD license* is a class of extremely simple and very liberal licenses for computer software that was originally developed at the University of California at Berkeley (UCB). It was first used in 1980 for the *Berkeley Source Distribution* (BSD), also known as BSD UNIX, an enhanced version of the original UNIX operating system that was first written in 1969 by Ken Thompson at Bell Labs.

The only restrictions placed on users of software released under a typical BSD license are that if they redistribute such software in any form, with or without modification, they must include in the redistribution the original copyright notice, a list of two simple restrictions and a disclaimer of liability. These restrictions can be summarized as one should not claim that they wrote the software if they did not write it and one should not sue the developer if the software does not function as expected or as desired. Some BSD licenses additionally include a clause that restricts the use of the name of the project (or the names of its contributors) for endorsing or promoting *derivative works*.

The most basic definition of a derivative work is a product that is based on, or incorporates, one or more already existing works. This can become a complex issue, particularly with regard to software, but the primary indicator that a software program is a derivative of another program is if it includes *source code* from the original program, even if the source code has been modified, including improving, extending, reordering or translating it into another programming language<sup>5</sup>

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5 Linux Info, BSD license style