

New Release of General Public License for Open Source Software

~ Paul Brace ~

INTRODUCTION

The General Public License version 3 (GPLv3), released by the Free Software Foundation on June 29, 2007, is the latest version of the most widely used "open source" license. The General Public License was first written by Richard Stallman in 1989 and updated on one previous occasion in 1992. The GPL has become the single most popular license for free and open source software. Recent surveys indicate that approximately one half of software packages with explicit free software terms utilize the GPL. Prominent free software programs licensed under the GPL include the Linux kernel and the GNU Compiler Collection (GCC).

The open source movement is based upon the "free" sharing of source code. A user of free software has the right to (i) distribute copies of the program, (ii) obtain the source code for the program, (iii) change the software or use pieces of it in new free programs, and (iv) know that he or she can take all of these actions.

Attributes Of GPL v3

The General Public License is commonly referred to as a "copyleft" or "viral" license. In other words, if you convey a covered work (either the original program subject to GPLv3 or a work based on the program), you must also convey the machine-readable corresponding source code under GPLv3.

In introducing GPLv3, Stallman commented that the adversaries of free software had found ways to limit the freedom of users under GPLv2 and therefore it was necessary to modify the license. One of the principal goals of GPLv3 is to prevent a practice called "tivoization", a term coined after the first product to use it, the TiVo. Tivoization is the practice adopted by some manufacturers of preventing the purchasers of their products from modifying any GPL-covered software utilized in the product by causing the product or appliance to cease functioning. The motivation for tivoization is that the manufacturer believes the software has features that users will not like. The manufacturer is taking advantage of the benefits of free software but does not allow purchasers of the product to do the same.

Under GPLv3, if a person or company conveys an object code work in a "User Product" (essentially a consumer product), the correspond-

ing source code conveyed with the GPL-covered software must be accompanied by "Installation Information". Installation Information means the methods or procedures to install and execute modified versions of a covered work in the "User Product" from a modified version of its source code. The information must ensure that the object code will continue to function despite the modifications.

GPLv3 is also designed to prevent patent deals like the Novell-Microsoft deal. In that case, Microsoft agreed not to use its software patents to prevent the use of GNU/Linux distributed by Novell to its customers in consideration of the payment of a fee by Novell to Microsoft. The Free Software Foundation objects to deals such as this whereby software patent holders can force users to pay for the privilege of running free software.

Section 11 of GPLv3 provides in part as follows:

You may not convey a covered work if you are a party to an arrangement with a third party that is in the business of distributing software, under which you make payment to the third party based on the extent of your activity of conveying the work, and under which the third party grants, to any of the parties who would receive the covered work from you, a discriminatory patent license (a) in connection with copies of the covered work conveyed by you (or copies made from those copies), or (b) primarily for and in connection with specific products or compilations that contain the covered work, unless you entered into that arrangement, or that patent license was granted, prior to 28 March 2007.

A patent license is "discriminatory" if it prohibits the exercise of, or is conditioned upon the non-exercise of, one or more of the rights granted under GPLv3.

When the licensed software is updated to GPLv3 and Microsoft is legally a "conveyor" of GPLv3 software, the license will extend patent protection from the customers of Novell to everyone who uses those programs. Section 11 of GPLv3 provides:

If pursuant to or in connection with a single transaction or arrangement, you convey, or propagate by procuring conveyance of, a covered work, and grant a patent license to some of the parties receiving the covered work authorizing them to use, propagate, modify, or convey a specific copy of the covered work, then the patent license you grant is automatically extended to all recipients of the covered work and works based on it.

GPLv3 also provides explicit protection to users from patent suits brought by the program's contributors, i.e., copyright holders:

Each contributor grants you a non-exclusive, worldwide, royalty-free patent license under the contributor's essential patent claims, to make use, sell, offer for sale, import and otherwise run, modify and propagate the contents of its contributor version.

With GPLv2, users could only rely on an implicit patent license from the supplier of the program not to sue for patent infringement.

TRANSITION FROM GPLv2 TO GPLv3

GPLv2 and GPLv3 are not compatible. In other words, there is no way to develop and combine code governed by a GPLv2 license with code governed by a GPLv3 in a single program. Each of these licenses provides that if code covered by the particular license is incorporated in a larger program or derivative work, the larger program or derivative work must be licensed under the same license. However, this is only relevant to a developer who seeks to link, merge or combine code from two different programs into a single program. There is no problem in running GPLv3-covered and GPLv2-covered programs side by side in an operating system.

For the reasons mentioned above, it will be advantageous to most free software developers to upgrade to the GPLv3 at their earliest convenience. ☐

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