

Open Source Software Development & Commercialisation

Developing Lifelong Learner Record Systems
and ePortfolios in FE and HE: Planning for,
and Coping with, Legal Issues.

What is Open Source Software?

- Source Code/Object Code
 - In proprietary software, source code is usually withheld from users of software.
 - This withholding can be enforced by technology and/or use of IPRs
 - Source code has not always been seen as proprietary, and some people think it should be made freely available.
 - Richard Stallman – Free Software Foundation, Eric Raymond – The Cathedral and the Bazaar
 - Clever use of © licensing has been used to underpin Free/Open Source Software development

What is Open Source Software?

- What does 'open source' mean?
 - Open Source Definition ('OSI approved')
 - Over 50 OSS licences certified by OSI
 - Problem of licence proliferation
- Why might developers want to go 'open source'?
 - Individual motivations
 - Altruism, reputation gain, talent signalling, new programming skills
 - Institutional motivations
 - Altruism, reputation gain, profit from participation, benefit from larger talent pool/user base, strategic motivations

Types of Licences

- What kinds of licence strategies are available?
 - Restrictive licences - Commercial/Proprietary
 - OS Permissive licences
 - OS Persistent licences
 - OS Persistent & Inheritable licences
 - Dual licensing - simultaneous use of open source and proprietary licences.

Open Source - Permissive

- BSD/MIT/Apache
 - Free distribution
 - No limits on modification
 - Microsoft – BSD TCP/IP Stack – Windows – no release of source code.
 - Licence changes acceptable if © notice retained.
 - Not quite the same as, but practically indistinguishable from, public domain software.

Open Source - Persistent

- GNU Lesser General Public Licence
 - Permits certain programs, usually sub-routine libraries to be licensed under FSF license, but to link to non-GPL software.
 - Free distribution
 - Modification and licence change OK if bundled as a whole into a new work
 - However, derivative works must be licensed under LGPL or GPL.

Open Source – Inheritable

- GNU General Public Licence
 - Free distribution
 - No limits on modification
 - All bundled and derivative works must be under GNU GPL.
- GNU GPL is incompatible with many other licences, unless all rights in the other works are waived in favour of GNU GPL (“Borg” property).
- This may be a problem with both restrictive and many company specific OSS licences.

Dual Licensing

- Use of both open source and proprietary licences for one product.
- Example - Sleepycat Software
 - BerkeleyDB (BDB) embedded database system
 - Sleepycat OSS licence permits usage of BDB in an app for redistribution for no charge, but source code for app must be available and freely distributable.
 - If developer does not want to release source code can buy proprietary licence from Sleepycat Software permitting use and redistribution in binary form.

The impact of OSS I

- If you own the © in your project's software code and you want to commercialise it, you can:
 - incorporate permissively licensed code into your code
 - bundle your software with unmodified LGPL software
 - possibly dual license your code, depending upon your proposed business model
- You cannot
 - incorporate GPL code (due to inherited licence conditions)
 - incorporate modified LGPL code (due to inherited licence conditions)

The impact of OSS II

- If you own the © in your project's software code and want to license it as open source, you can:
 - incorporate permissively licensed code into your code
 - incorporate modified LGPL code (but the OSS licence must be the GPL)
 - incorporate GPL code (OSS licence must be the GPL)
 - if no modified LGPL or GPL code is incorporated and no other licence applies, you may choose an existing OSS licence or create your own
- If you are an employee creating code in the course of your employment, your institution probably owns the ©, and decisions about licensing will lie with the institution.

Choosing/Creating OSS Licences

- Creating new OSS licences is probably best left to lawyers.
- Choosing an existing OSS licence requires an understanding of the implications of each type of licence for future use of the code, and should be approached with care.
- A draft Open Source Policy is available from JISC OSS Watch
 - http://www.jisc.ac.uk/uploaded_documents/Draft_JISC_Open_Source_Software_Policy.doc