Open Source Licenses After *Jacobsen v. Katzer*

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History of Open Source

- Richard Stallman, working at MIT, was responsible for improving a timesharing operating system.
- MIT purchased new, proprietary system; Licensor refused to provide source.
- Stallman quit MIT in 1984 and began work on GNU, a UNIX-type operating system. Does not have an OS kernel.
- Stallman develops a “copyleft” scheme, that uses copyright law to enforce free use of software.
- “Copyleft” is embodied in General Public License (GPL; 1989, 1991, & 2007).

History

- BSD: Freely distributable version of Unix (1989)
- 1991: Linus Torvalds began work on UNIX-type kernel, using Minux (similar to UNIX, used as a teaching tool).
- Torvalds asked the Minux community for assistance.
- Torvalds incorporates GNU into Linux (meaning that Linux is subject to the GPL).
- With the help of a few thousand programmers, Linux develops into stable, secure, robust OS.
- Other open source communities develop.

Open Source Licenses

- OSI
  - 72 “approved licenses”
  - Sub-categories
    - Widely used
    - Redundant
    - Non-reusable
    - Superseded
    - Voluntarily retired
- Strong copyleft
  - GPL
  - LGPL
- Weak copyleft
  - Mozilla
  - CPL
  - Apache
- Academic
  - BSD
  - MIT

Contract v. License

- GPL

  "The GPL does not require any promises in return from licensees, it does not need contract enforcement in order to work."

- CPL

  "The accompanying program is provided under the terms of this Common Public License ("Agreement"). Any use, reproduction or distribution of the program constitutes recipient's acceptance of this Agreement."

Hypothetical

You may use the Program *provided that* "in no event will any party who conveys the Program be liable to you for damages, including any general, special, incidental or consequential damages arising out of the use or inability to use the Program, (including, but not limited to loss of data)."