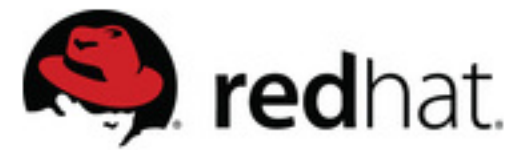# The decline of the GPL

and what to do about it

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Views expressed in this presentation are solely my own and do not represent the opinions or policies of any past or current employer or client.

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About me

Open Source Licensing and Patent Counsel, Red Hat, 2008-present

Counsel, Software Freedom Law Center, 2005-2008

Prologue

"Whatever doubts may have existed in 1991, we have shown since then that a copyleft license, a license designed for durable protection of user freedom, can form the basis of a larger set of **commercially useful** software than any non-copyleft free software license has ever produced."

(FSF, January 2006)

5.5 years later

AOOo!

bkuhn howls in rage!

and Ian Skerrett responds

"strict" copyleft licenses a **dying breed**

GPLv3 "failed experiment", little adoption

"restrictive" licensing just limits your community

Matthew Aslett

GPL family numerically increasing,
but losing "market share" to noncopyleft

2006: vendor engagement with strong copyleft peaks

engagement with noncopyleft rises steadily since 2002

The world before

How did the GPL get popular?

license popularity not meaningful until late 1990s

importance of GNU tools + rise of Linux

generation gap?

Netscape Mozilla source release (early 1998)

David Wheeler (2002)

Make Your Open Source Software GPL-Compatible. Or Else.

Freshmeat.net "branches": 71.85% GPL (LGPL 2nd at 4.47%)

SourceForge.net: hosted projects 75% GPL (LGPL 10%)

RHL 7.1: 50.36% SLOC GPL (MIT 8.28%, LGPL 7.64%)

Widely cited for years as proof of GPL's dominance

Perils of license stats analysis

"one-to-one" not meaningful

community size, SLOC, commercial importance,
technological importance

problems of license identification

2007-2010

GPL dominance assumed; focus was A/L/GPLv3

Black Duck/Palamida: GPL family 70% of all FOSS
licenses in use (Byfield 2008)

DiBona (2010): GPLv3 > GPLv2 on Google Code

The Economic Case Against the GPL

ESR, April 2009 (response to *FSF v. Cisco*)

GPL "does more harm than good"

"needless fear" > "in-group signalling"

Apache better than GPL
for open-source business?

Matt Asay (April 2009)

"GPL is like opening a cannister of radioactive waste: while your competitors can touch it, you're dead certain that they won't"

but now believes Apache licensing a better "capitalist tool"

The view from Westford

Early years at Red Hat

assumed GPL/copyleft inherently superior

viewed GPLv3 adoption approvingly (still do)

Red Hat projects often used GPLv2 reflexively

GPL better for community building than BSD?

"We are a GPL company"?

JBoss engineering culture anti-GPL

web developers preferred permissive licensing

GPL disfavored in particular language communities

anti-copyleft developers have sophisticated arguments
(community building, governance, adoption)

Back to Aslett

Responses to Aslett are interesting

why did this get so much attention?

for some, seemed to confirm anecdotal evidence

others reacted defensively

Some criticized methodology

Aslett relied on Black Duck data

but later claims same results from FLOSSmole

Matthew Garrett

influx of new FLOSS web developers not exposed to
strong copyleft tradition?

Chris Webber

web developers have been focused on libraries/frameworks

widest possible adoption desirable

"copyleft advocates fell asleep at the wheel"

Jon Buys: *Top Licenses on GitHub*

Based on most popular "watched" & "forked" projects

Brian Proffitt: blames GPLv3

"FLOSS opponents" use as wedge to divide community
+ sow confusion about FLOSS goals & benefits

also accuses FSF of pro-GPLv3 FUD

all this caused vendors to seek non-GPL alternatives

Rob Landley

Blames GPL enforcement

Sullivan: Debian package analysis

Sarge (2005): GPL family 71%

Etch (2007): GPL family 77%

Lenny (2009): GPL family 87%

Squeeze (2011): GPL family 93%

Aslett's theory

single-vendor-control → multivendor participation

increasing engagement of "complementary vendors"
vs "open source specialists"

My take

Skepticism re pro-GPL orthodoxy

don't need copyleft to build strong communities

copyleft no guarantee of strong communities

no evidence copyleft better at promoting "giving back"

(some of this implies weak copyleft no longer useful)

GPL *non*enforcement

perception of widespread noncompliance
→ massive unmet expectations

uncomfortable question: GPL merely programmatic?

Dual-licensing/open core backlash

reputational harm

"it's not the license that a project is under that's as important as the way the project is governed"

What about GPLv3?

reaction against and product of open source bubble

lost opportunity to stem (possible) anti-copyleft shift

A few *real* GPL problems

"We would have liked to oblige those who have asked us for a simpler and shorter GPL, but we had to give priority to making GPLv3 do the job that needs to be done. We appreciate simplicity in licenses, but simplicity must not be allowed to interfere with the goal of protecting users' freedom."

BSD "doesn't *do* anything"

"Licenses are tokens"

Word counts

GPLv3: 5644

CC BY-SA 3.0 Unported "Legal Code": 3351

GPLv2: 2968

Apache License 2.0: 1581

CC BY-SA 3.0 Unported "Deed": 260

MIT license (OSI version): 171

Inherent/perceived complexity

may encourage GPL advocates to stress inscrutability,
adopt hyper-legalist rhetoric

shifts power from developers to
lawyers/Establishment

vs. aesthetic preference for minimalist licensing

Collapse of authority

pre-GPLv3 complexity counterbalanced by FSF's active
and responsible quasijudicial role

since GPLv3, FSF has retreated (resources?)

The Cloud

without distribution, no GPL advantage over BSD

cloud developers come from anti-GPL cultures

What about AGPL?

anti-copyleft developers inclined to reject

web developers want jobs

AGPL pwned from get-go by dual-licensing hucksters

What to do about it

Is there any problem?

suppose a small shift in copyleft/noncopyleft balance

experimentation with noncopyleft licensing is useful

Long-term decline more troubling

strong copyleft is a vital legal tool for FLOSS

Start thinking about GPLv4

or a substitute *strong* copyleft

dangerous to think we've reached endpoint of license
evolution

What should GPLv4 look like?

1580 words or less (cf. Allison Randal; SimPL (Gomulkiewicz) [2007])

or use CC deed/legal code approach?

solid legal implementation of RMS's original vision

+ active, community-legitimate interpretive authority

Thank you!

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