GNU public contract, the main contract for the exploitation of open source software

Simin Asadzadeh Taleie

PhD student of Private law, Young Researchers And Elite club, Robat Karim Branch, Islamic Azad University, Robat Karim, Iran

ABSTRACT

Free software or open-source movement that has performed about two decades ago in America and then in Europe, has great success and has been welcomed by many software stakeholders. The content of this movement is providing the public situation for free use of software without payment and more important, use of public power and capacity to grow and improve software performance and diversity. Since the beginning of the movement around the world, including in Iran, the free software or open source is widely used by those involved in the industry. Given that the software is one of intellectual property rights issues and protect it happens in this area. Perhaps the only thing that users of these software know is that they are free to exploit. The importance of this paper is to introduce those involved in the software industry as well as the Actyers of the legal issues related to intellectual property rights in the field of open source software.

KEYWORDS: Open - source software, Contract, GNU Public License, intellectual property rights, proprietary software

INTRODUCTION

Open source software versus contract proprietary software that all of us use them. What is in the area of intellectual property right is agreements granting right of exploiting it is also known as the license agreement. But in this article we are going to know open source software and their features as the subject of intellectual property rights. Research about major contracts of software licensing and finally, pay attention to one of the most important of these licenses that is the GNU General Public License.

1- Definition of open source software
Free software is a type of computer software that gives freedom to users to do things like run, copy, distribute, supply, reform of imposing changes in order to improve the software. In general open source applications have the following conditions:

- The text of the source code as compiled
- The possibility of re-selling the program, the customer does not prohibit the sale of any part of the program. For resale don't need to pay any fee, such as copyright or patents.
- Redistribute the source code as compiled
- Ability to create derived and new programs and their distribution. Open Source License explicitly gives the possibility of redistribute of programs that are caused by primary program text change.
- There is no difference between any of the individuals or groups involved in the production program.
- There is no limit to the applications and determine uses of program
- For redistribute there is no need to a new license.
- All rights that main distributor has are transferred to other distributors.
- It doesn't create Limit to other programs that are producing with other licenses.
- Any support and advocacy of specific technology.

Open source software idea is very simple:
When programmers can see the software text through the Internet and read it, distribute it and change it, the software is improved and grow. People develop it and make it more compatible with their needs and meet their failure; when it changed, it is ready for use of everyone. [1]

Corresponding author: Simin Asadzadeh Taleie, Young Researchers and Eliteclub, Robat Karim Branch, Islamic Azad University, Robat Karim, Iran Email: Asadzadeh.simin@yahoo.com

2- Software and intellectual property rights

In 1980 copyright Act to protect software was applied and after that willing of whole world to enforce software copyright Act became increased day after day.As we know, copyright Act, protect expressions of a literary work, but it does not protect ideas. So when others receive a copy of a literary work or a piece of music, can understand ideas used in it and be inspired to create new jobs. This issue is effective in development of human intellectual activity. But this issue does not apply to software, especially proprietary software. One of the main differences between computer software and other literary and artistic works is that software is created bychanging source code into machine language, which without access to the source code of the program is very difficult to change and in many cases is impossible. In closed software model, or proprietary software rights of end users are largely ignored because the source code is unavailable. In some cases that licenses are not issued for programmers, to reverse engineer, de-assembly or recompile, except to the extent that copyright Act allows. Using hardware and software locks, activate over the Internet or computer networks, providing longitudinal copies, depending software to specific hardware of the user's computer, are attempts which have done to protect the private software. In the case of open source software as well as other IT issues, intellectual property is crucial but associations and free software and open source movements by using different license models and with respect to copyright Acts try to act in such a way that protected software rights owners as well as the rights of users of computer programs. In the case of open source software, protecting program, in large extent is given to users, so that they consider it as their own property and take care of it.

Copyright is actually a set of rules that includes the proliferation low and publishing work, the making of derivative works of the original work, copy of the distribution Act, the Act providing for public display and other types defined in the copyright Acts. Without the explicit consent of the owner of copyright, breach of these rules and distribute work for any person or group is illegal and will be prosecuted. Supporting the development of copyright Act is not only effective on the monopoly in civic and judicial field, but also has become an international standard. In the late 19th century that works under the copyright gradually became an important element in international trade, protection of copyright, became a serious issue. After European settlement, the Berne Convention, the first Act of the national executive, was adopted in 1886. While this treaty highlights the protection of a work copyright in the national field of a country, National publication Act, supports an external work with any nationality. The Berne Convention provides an international standard for the protection of copyright. However, without a clear and stable structure support of the Berne is relatively weak. That is because for the owners of work announced the acquisition of their score in the other countries is very expensive. One thing about software copyright protection is the star turn. Software are in two ways: compiled and source of codes and instructions. While opinion is that the source code can be visible and understandable for programmers, when they were compiled and turned executable form, will not be understood by anyone. [2]

3_ GNU public contracts (GPL)

According to existing Acts, protecting a software is done by the Copyright Act. This means that as soon as the creation of software all its rights will be exclusive for copyright holders. No Comments implicit copyright holder can claim all the rights granted by copyright Act. Process through which GPL license guarantees freedom of software sometimes is called "copy left". While the exclusive owners say the famous slogan "all rights reserved", the slogan should be corrected such that "copy this program is reserved." Permission to copy is a way to avoid turning a free software into proprietary software. While copy left is to comply with Copyright Act, but the purpose is opposite of the law. This means that instead of inducing ban of software copy, software owner required to submit a free delivery and permitted copy. To put a work in public domain for public use, works with GPL license should be considered as permitted copy. The owner of the work to combat monopolies of Software copyright as a copyright owner tries for developing new concept and value of permitted copy, against prohibition of copy from proprietary software.

Owners and authors who want their software applications be on the free / open source level, not only with regard to Copyright Act, offer their product to the public. Because it is possible by misuse of this opportunity, secondary monopolies arise. Instead, the author and publisher of the software should set its own rules and has announced with promotion of these rules, individuals are required to follow a set pattern of behavior in the use of such software, with getting a permission of GPL, author in addition to providing its software to others, cause development of the open source movement and put a moral responsibility load on the shoulders of users to maintain open development and without monopoly, they also develop this movement. Although apparently this is dangerous and there are fears that Open Source software has become proprietary software and owner of the software are not aware or in case of awareness involved in the court issues, but this method increasingly is used. Many groups around the world are working together in this way and benefit next to each other. One of the examples of the GPL license is

copy-left [3]. Open source software are divided into two categories: copy-left and non-copy-left. Copy-left Software is a free software that conditions of its distribution is in such a way that people who want to re-distribute it, cannot apply any new restrictions while redistribute or modify the software, this means that each version of software, even if modified, should be free. In practice, almost all applications of copy-left use General Public License. Non-copy-left Software is a free software that, unlike copy-left, allowing the user to redistribute and change as well as adding new restrictions. If a program is free but not copy-left, there may be some copies or modified versions of it, which does not free. A software company can compile a program with or without changes, and distribute its auto-run file as a proprietary software product. There isn't a single procedure for licensing source code but there are two basic types of licenses: GNU (GPL) (GNU Public License) and BSD (Berkeley Software Distribution License). GPL (GNU Public License) is different with licenses based on ownership and monopoly. Based on that, in addition to publishing software to its legal owners, permits user access to the source code is also provided. And also let to implement programs and multiple applications, copying, distribution of them and correcting and improving. When a work has mentioned license, means that the software owner has the right for copyright its own software, but respect for others and respecting the public rights which is prior to private law, permission to free use of that software is assumed to be legal. Most software licenses are designed to limit others in ownership and change software. But GPL license plans to guarantee freedom of others in sharing and changing an open source software. So become certain that the software is free for all users. According to providers of open source software licensing, if you're profitable, and let others benefit from the changes in your cooperation. Copy-left requires that the product derived from the open source software should be distributed under a license identical to the license of the original software. Any changes, copying, or distribution of software under this license is as acceptance of license. Then new software that has been developed as a result of changes in the source code of the software is inherently and by itself under the GPL license, and the others, according to this license, have right to copy, receive the source code, and change it and re-distribute it. In GPL license there are two ways for the rights of authors or producers:

- Copyright of the program
- Established legal restrictions for changes and distribution of software

When a computer program is licensed under the GNU, besides requiring access to the source programs, users must have the following rights and freedoms:

- The implementation and use of programs
- Prepare copies of the program
- Redistributing the program, even for commercial purposes, by presenting a copy of the copyright and certification of no guarantee, and while source code is available to everyone, redistribution of program Intermediate code or its executable form is also possible.
- Create derivative works from programs and their distribution, also provide derived works to third parties is also possible under GNU license.

Conclusions:

Considering the development of use of open source software in the world and Iran, the need to pay attention to this software legal issues, rights and duties of the involved parties is essential. As was observed, the use of this software licenses (contracts) is given to individuals. The right to use of open source software in its nature is an operation agreement (license) that financial rights of primary software creator is very limited compared to proprietary software, but generally not beyond the scope of literary and artistic property rights. GNU as the major license for these software is an obvious example of copy-left and concern user rights as producers' rights. Given the lack of legislation in this area, in the country particular need to legislate in this field is felt. So that in different parts of the society open source software use appropriately.

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