Supporting Democracy

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- Why is The Internet Important to Democracy?

- Why is Open Source Important to Democracy?

- Threats to the Democracy of the Internet.

- The Addiction Model of Software Purchasing.

- Should You Really Consider Open Source and Proprietary Software As Equals?

- Is the GPL A Monster?

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Why is the Internet Important to Democracy?

- Similar in its effect to the Gutenberg press.

- Places the scarce resource of broadcasting in everybody's hands.

- On the Internet there are no more "Isolated Nuts".

- Invention of Gutenberg press was followed by copyright laws and restrictive speech laws.

- Freedom-of-speech laws and expiration of copyright were then enacted to balance creator's rights with the public's rights.

- We've not maintained that balance and must revisit it. Copyright terms have become too long, odd Internet speech laws, issue of software code as free speech.

Why is Open Source Important to Democracy?

- Monopolies Do Not Generally Promote Democracy.
- Competitive markets also help control costs, but we have an unbalanced market for software today. Microsoft has been able to create an extremely strong dominance, and competitors have historically been unsuccessful if they try to play be the same rules as Microsoft.
- Open Source is the only viable competitor, the only one that could balance that dominance, because Open Source *changes the rules*.
- Rules of Open Source are defined to optimize collaboration rather than monetization.
- But Open Source does *not* mean you have to make a vow of poverty.

Who are the Open Source Developers?

- We are business people, academics, and individuals.
- We use and develop much software for our business, but in general we are in another business than selling software licenses.
- This fits with the fact that *most* software is not written to be sold, but serves some cost-center purpose within a company.
- We are aware of the cost of our own creativity, and treat it as any other cost. We justify the cost of work on Open Source financially, through its role in enabling and facilitating our business, our if we are individual developers, through both personal and business benefits.

Benefits of Open Source

- Collaboration between companies on non-differentiating cost-center software makes economic sense.

- Ends vendor lock-in-Any vendor can service the same software.

- *Most business will never touch source code.*

- They profit from Open Source because they gain a large competitive market of vendors who service the same code.

- Open Source is the logical extension of Open Standards, though it's less formal. Rather than share a document, we share the implementation.

DRM Threatens the Democracy of the Web

- Media companies would like to use the Internet as a delivery system, and would like to have the internet constrained to provide them with safety for their intellectual property.

- Media companies would like to close the "Analog Hole".

- The only effective means of closing the analog hole is to require a digital signature verifying the right to publish on all web media. This will eventually become required.

- Signature will come from an authority like the DVD copy control consortium, and will be expensive due to the burden of rights verification.

DRM and Open Source Don't Mix… So Far

- Open Source needs to be at the table as a stake-holder in DRM discussions.

- DRM is currently extremely hostile to Open Source.

- In general it locks out software that can be modified.

- Protected Boot.

- Protected Communications.

- Inaccessibility to Media.

- Customer Must Be The Open In Control.

Software Patents Threaten the Democracy of the Web

- There is little evidence so far that restricting software patents to those which have a technical effect will help us much. There's also little evidence that software patents contribute to the advancement of the art.

- Patent holders are not compelled to license all comers, they can choose to lock out any or all other business arbitrarily.

- Software patents establish a discriminatory cost structure.

- Large enterprises are cross-licensed with each other and need not pay.

- The small and medium sized enterprises (SMEs) that hold few patents will always pay more royalties to large enterprises who hold many patents than the SMEs earn themselves.

- Who lives at the top of this pyramid game?

- Due to submarine patents, small and medium enterprises really have no assurance that any software product they make is legal.

- Open Source developers do not charge any royalties and can not bear to be charged them, thus patents tend to lock them out.

Combination of Patents and Standards Is Especially Harmful.

- What is Patent Farming?

- What is RAND Licensing?

- RAND still discriminates against SMEs and Open Source.

- 30 separate standards support any web click. Potential for many RAND patents, and an arbitrarily high total cost.

Policies for Standards Agencies To Promote Fairness.

- Standards agencies must enact policies that prohibit patent farming by working group members.

- Some have proposed to waive royalty requirements for Open Source and some SMEs, but that's discrimination.

- If you want to accommodate Open Source and all SMEs, and also not discriminate, the policy must be royalty-free for everyone.

- Royalty need only be waived for the purpose of implementing the standard, patent owners can charge for any other application, even in the same program.

- W3C is in process of adopting a global royalty-free policy.

The Addiction Model of Software Purchasing- Anti-Competitiveness In Action

- The vendor introduces their product to you at low cost.
- The vendor tries to make it necessary for you to buy accessories from them.
- Incompatible servers are used to sell incompatible clients.
- The vendor tries to make it necessary for anyone who wants to communicate with you to buy from them exclusively.
- Incompatible file formats and intercommunication protocols lock others out.
- The vendor tries to make it expensive to switch brands.
- System is made just incompatible enough that porting is expensive.

Results of the Addiction Model.

- You're Addicted To One Brand.
- Vendor Enforces and Increases Lock-In.
- Little Competition Possible.
- Prices Increase.
- Corporate Profits Decrease Due To Costs.
- Citizens Pay Higher Taxes To Support Government IT.

Goals For Purchasing Policies To Break the Addiction Model

- Provide a competitive market of multiple vendors implementing the same interfaces.

- Provide potential to replace one product with another in situ, replace a server without replacing its clients.

- Establish a level playing field where Open Source and proprietary can compete fairly with each other.

Non-Goals For Purchasing Policies To Break the Addiction Model

- Do not enact preference laws that *require* Open Source, you get too much objection from proprietary vendors, who have a right to exist.

- Don't start out by making new law at all. Just modify your internal purchasing policies. Government and large corporate purchasers have the power to change the market through their purchasing policies. Do that first, then make new law if it's necessary.

- Don't require that *everything* about the products you buy implement a formal open standard. Standards are extremely helpful, but they are cumbersome to enact, tend to trail the state of the art by years, and we can get along with **disclosure**, rather than a formal standard, for most applications…

Break the Addiction Model By Requiring Disclosure.

- Require that file formats and intercommunication protocols of applications that you purchase be publicly documented.

- Require that the right to implement file formats and intercommunication protocols must be available to all competitors, royalty-free.

- Allow your software vendors to keep the internals of their applications proprietary. Proprietary vendors need their intellectual property. The only part of their applications that needs to be made public is the way those applications communicate.

Should You Really Consider Open Source and Proprietary Software As Equals?

- Consider Two Products With Identical Features And Performance.
- One Can Be Freely Redistributed, The Other Requires A Payment For Each User.
- One Can Be Modified As You Like, The Other Only If You Convince The Vendor.
- One Offers A Choice Of Service Vendors, The Other Has A Service Monopoly.
- One Would Survive The Demise Of Its Vendor, The Other Might Become Un-Maintainable.
- One Can Be Audited For Security Issues, The Other Is Opaque.
- Are The Two Products Really Equivalent In Merit?
- *Intellectual Property Policy Is A Merit To Be Considered.*

Is The GPL an Anti-Commercial Monster?

- Several companies use dual GPL and Commercial license models effectively.
- GPL is widely employed by HP, IBM, many others.
- GPL does not make any requirements that you give away your data or other programs.
- GPL does make a share-and –share-alike requirement on derived works of a GPL program. Proprietary vendors don't want to join this sharing.
- Were GPL applied to public-funded research, you would not be paying twice for that work – once with your taxes, and one when you buy it.
- But proprietary vendors wish to make use of public-funded research, they're taxpayers too.
- Best solution is for LGPL license to be used for public-funded research. This allows public-funded work to remain public, and private additions to be under proprietary licenses.

Insincere Industry Efforts.

- Comp TIA / Software Choice Would Have You Build Yourself To Merit of IP Policy.

- They Also Support Royalty-Generating Patents in Industry Standards.

- They Will Tell You That Interoperability Is An Expensive Option.

- They Will Tell You That Linux Is Competing Well Enough Already. But Microsoft sells more software by January 3 than commercial Linux vendors sell all year.

- See **Sincere Choice. org** for a platform for real fairness.

Contact the Speaker

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