

Software Protection and Licensing Challenges in Europe: An Overview

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Agenda

- Introduction – Status Quo
- Software in Theory and Practice
- Software and Exploitation of Intellectual Property Rights
 - Software Licensing Process
 - Management of Intellectual Property Rights for Software
- Conclusion – Further Work

Introduction – Status Quo

- Software as:
 - an important part of contemporary inventions and creations;
 - an extremely important part of IP.
- The software protection in Europe – not considered fully arranged.
- Computer scientists face a number of challenges when it comes to exploiting IPR in software.

Software – Theory and Practice (1)

- The European Patent Convention:
 - stipulates that programs for computers are not regarded as inventions;
 - excludes computer programs from patentability.
- Software that does not demonstrate a technical contribution can only be protected by copyright which does not protect ideas.
- Any invention that makes a non-obvious "technical contribution" or "solves" a "technical problem" in a non-obvious way is patentable – even if the technical problem can be solved by running a computer program.

Software – Theory and Practice (2)

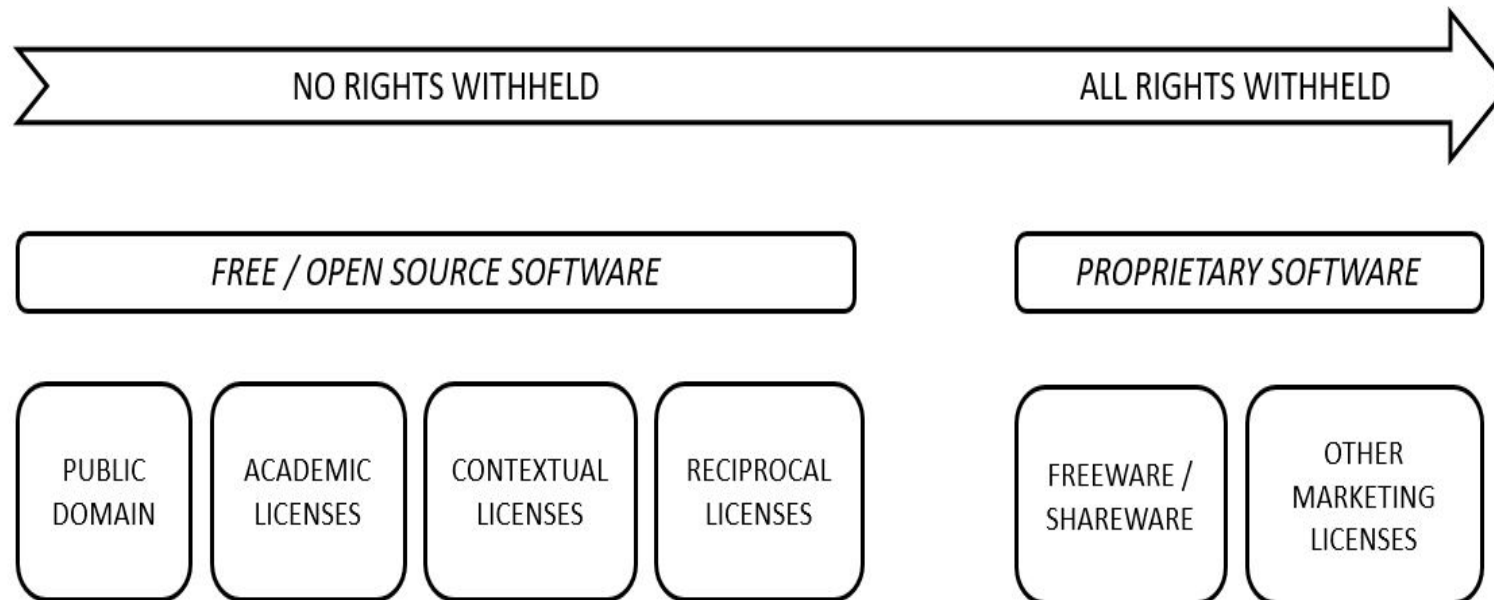
- Today – the three largest patent offices in the world – in the EU, US and Japan – allow patenting of certain software, although there are differences in the criteria they use when accepting applications.
- These discussions led to the widely accepted principle that computer programs should be protected by copyright, while apparatus using computer software or software-related inventions should be protected by patent.

Software and Exploitation of IPR – Software Licensing Process (1)

- The means of creating value from software can vary considerably depending on the exploitation scheme chosen and associated ecosystem to which the use of software in question is directed.
- Business models are formalized in a contract, usually in the form of licensing agreements which impose specific rules of use on third parties who intend to exploit the software.

Software and Exploitation of IPR – Software Licensing Process (2)

- Classification of typical software licenses:



Software and Exploitation of IPR – Management of IPR for Software

- Two basic issues should be addressed in the assessment and planning process:
 1. *Why was the software created:* was it intended to generate income through licensing to end users or was it developed as part of a scientific project without an exploitation strategy in mind?
 2. *How was the software developed:* which are our own components, what have we obtained from elsewhere, and, if obtained from elsewhere, under which licenses?

Conclusion – Further Work

- In order to ensure successful marketing of software, the PRO system needs to provide the motivation and a rewarding mechanism for scientists for their enterprise.
- TTOs propose:
 - regular reflection among computer scientists within PRO is facilitated on new, marketable software code;
 - verification is introduced to any technical contribution, and that invention based on software code is registered accordingly.

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Thank you for your attention.

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