Overview of GPLv3, Second Draft

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Abstract

This lecture introduces the public discussion drafts of the GNU General Public License (from now on referred to as GPLv3, GPL or GPL3). We will "walk" through the license and highlight differences between the proposed version 3 and version 2 of the GPL.

Primary goal of this lecture

The primary goal of this lecture is to inspire people to join the drafting process though an introduction to the text.

When

Schedule:

1. 16-17 January – Initial Conference, release of first public draft[a]

2. June 2006 – Second discussion draft (done: July 27th)

3. September 2006 – Earliest possible release date of GPL3

4. October 2006 – Possible third discussion draft

5. March 2007 – Latest possible release date of GPL3

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[a]Months of so-called "secret" work came before to avoid lobbying, remain flexible at first, lay legal goundwork etc.

Topology of the Drafting Process

- RMS, Eben Moglen draft the text

- Discussion Committees deliberate, publicise and present arguments to the drafters.[a]

- The general public via conferences and the collaboration methods at http://gplv3.fsf.org

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[a]The Discussion Committees are invitiaion only, but they can in-turn freely invite additional people

The Discussion Committees

Who has been invited to the Discussion Committees?
Stake-holders. To name a few, in no particular order:
Google, The Mozilla Foundation, Redhat, Intel, Gentoo,
Bruce Perens, The Apache Foundation, Apple, MySQL,
IBM, Sun, AMD, OSDL, Nokia, The Home Depot,
Commonwealth of Massachusetts, The Bank of America,
ifross.de and many more.[a]

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[a]Incidentally, many of the above fund the Freedom Law Center in New-York.

Process Goals

The drafting process has the following stated objectives[3]:

- A global license for the signatories of the Bern convention[a]

- Protection of existing freedoms

- Do No Harm, being mindful of unintended consequences

- Consulting the community[b]

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[a]Version 2 of the GPL was rather United States specific.

[b]The second public draft is living proof that the public process is a resounding success.

The Freedoms

Here are the fundamental freedoms which the GPL grants:

- The freedom to run the program, for any purpose (freedom 0).

- The freedom to study how the program works, and adapt it to your needs (freedom 1). Access to the source code is a precondition for this.

- The freedom to redistribute copies so you can help your neighbor (freedom 2).

- The freedom to improve the program, and release your improvements to the public, so that the whole community benefits (freedom 3). Access to the source code is a precondition for this.

Satellite Licenses

Additionally, drafts have been published of the GNU Free Document License and the new GNU Simpler Free Documentation License. Here are some highlights:

- New terms crafted during the GPLv3 process to improve internationalization

- Clarifications to help people applying the license to audio and video

- Relaxed requirements for using an excerpt from a work

Quote the draft:

> To "propagate" a work means doing anything with it
> that requires permission under applicable copyright
> law, except executing it on a computer, or making
> modifications that you do not share. ... To "convey"
> a work means any kind of propagation that enables
> other parties to make or receive copies, ...

Intent: To "cut-loose" the license from any particular system
of law. To enhance and increase the applicability of the
license in different countries.

Quote the draft:

> The "source code" for a work means the preferred form of the work for making modifications to it. "Object code" means any non-source version of a work. ... The "System Libraries" of an executable work include every subunit such that ...

Intent: To aid a wide range of different systems of law in understanding how to identify the source code for a work. "System Libraries" are explicitly described.

Section 1, Corresponding Source

Quote the draft:

> The "Corresponding Source" for a work in object code form means all the source code needed to generate, install, and (for an executable work) run the object code and to modify the work, except its System Libraries, and except general-purpose tools
>
> ...

Intent: Builds upon the previous definitions to include code the program is designed to require and exclude general-purpose system code.

Section 1, Corresponding Source

Quote the draft:

> The Corresponding Source also includes any encryption or authorization keys necessary to install and/or execute modified versions from source code in the recommended or principal context of use, such that they can implement all the same functionality in the same range of circumstances.

Intent: To paraphrase Eben Moglen: "In the vernacular: Plays All the Same Movies".

Quote the draft:

> ... This License acknowledges your rights of "fair use" or other equivalent, as provided by copyright law. ...

Intent: As stated, to make explicit that the license encourages fair use doctrine.

Section 2, Basic Permissions: Patent Retaliation

Quote the draft:

> This License permits you to make and run privately modified versions of the Program, or have others make and run them on your behalf. However, this permission terminates, as to all such versions, if you bring suit against anyone for patent infringement of any of your essential patent claims in any such version, for making, using, selling or otherwise conveying a work based on the Program in compliance with this License.

Intent: Narrow patent retaliation.

Quote the draft:

> Propagation of covered works other than conveying is permitted without limitation. Sublicensing is not allowed; section 10 makes it unnecessary. Conveying is permitted under the conditions stated below.

Intent: To "de-link" the license's definition of propagation from the incidental statutes of any particular system of law.

Section 3, No Denying Users' Rights through Technical Measures.

Quote the draft:

> No covered work constitutes part of an effective technological "protection" measure under section 1201 of Title 17 of the United States Code. When you convey a covered work, you waive any legal power to forbid circumvention of technical measures that include use of the covered work, ...

Intent: You are welcome make Free software do whatever you want (DRM included), and you are welcome to set-up a machine so that it will not run a modified version unless signed. But you must give the ability to other users to sign their own modified versions.

Section 4[1] has only been modified to take into account the new provisions in section 7. Nothing in the distribution section is incompatible with any existing forms of distribution of GPL'ed works in use today.

Quote the draft:

> ...is called an "aggregate" if the copyright resulting from the compilation is not used to limit the legal rights of the compilation's users beyond what the individual works permit. ...

This part of section 5[2], is targeted at courts and commercial entities. It better defines what "mere aggregation" is. This was a source of doubt and uncertainty in the past; prompting questions like: "If there is a GPL'ed program on a CD in my house, is my cat and all the software in my entire house now under the GPL because it is viral?".

Section 6[3], Conveying Non-Source Forms

This section lists ways to we can convey the Corresponding Source when we "convey" non-source forms of the work.

Section 7, Additional Terms

This section's intent is to bring into compatibility permissive licenses which were not compatible with version 2 of the GPL for reasons other than the actual freedoms those permissive licenses granted.

Section 7 a, Additional Permissions

As long as you give all the permissions in the GPLv3, you may add permissions of your own. This is formalised recapitulation of the intent in version 2 of the GPL.

Quote the draft:

> Additional requirements are terms that further constrain use, modification or propagation of covered works.

Intent: Broaden the compatability of the GPL by allowing for the preservation of copyrights, legal notices, different warranties[a], attributions, trademarks, prohibition of using contributors names in advertisement, requirements of markings, prohibitions of misrepresentations of origin, the "Affero GPL" requirement (4), and anti-aggressor patent retaliation such as in the Apache Software License version 2 (section 3)[1] and Eclipse Public License version 1 (section 7)[2].

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[a]important for international compatibility requirements

Section 7

Additional permissions may be removed or changed by entities modifying the code. Additional restrictions cannot be removed or modified by anyone but the entity which added them in the first place[a].

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[a]The GPL is believed to be enforceable, but this does not promise that your additional requirements are as well!

Section 8[4], Termination

As opposed to the "immediate termination" clause in version 2 of the GPL, GPLv3 allows you to be put on notice, and then have your rights under the license terminated by a copyright holder. Those who have received copies, or rights, from you do not have their rights terminated as long as they are in full compliance.

Quote the draft:

> You are not required to accept this License in order to receive or run a copy of the Program. Ancillary propagation of a covered work occurring solely as a consequence of using peer-to-peer transmission to receive a copy likewise does not require acceptance. However, nothing else grants you permission to propagate or modify the Program or any covered works.

Intent: To make clear how to recieve the rights in this license. "Ancillary" transmitting of the Program via peer-to-peer schemes like Bittorrent does not require accepting the license.

Section 10[6], Automatic Licensing of Downstream Users

Modified to take into account the permissions and restrictions clauses of section 7.

Section 11, Licensing of Patents

Quote the draft:

> If you convey a covered work, you similarly
> covenant to all recipients, including recipients of
> works based on the covered work, not to assert any
> of your essential patent claims in the covered work.

Intent: Version 2 relied on the implicit patent laws in the
U.S. GPLv3 makes clear in an explicit manner, that
distributing a GPL'ed work is a patient license grant for the
relevant licenses.[a]

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[a]This is similar other Free software licenses which have come out since Version

2 of the GPL

Section 11, Licensing of Patents

Quote the draft:

> If you convey a covered work, knowingly relying on a non-sublicensable patent license that is not generally available to all, you must either (1) act to shield downstream users against the possible patent infringement claims from which your license protects you ...

Intent: Do not put your distributees in a position of danger from which you are exempt.

Section 12[7], No Surrender of Others' Freedom

Quote the draft:

> If conditions are imposed on you (whether by court order, agreement or otherwise) that contradict the conditions of this License, they do not excuse you from the conditions of this License.

Also known as "the Patrick Henry[a] provision". This can also be seen as a "truth in labeling" problem.

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[a]http://en.wikipedia.org/wiki/Patrick_Henry

Section 13[8], Geographical Limitations

Quote the draft:

> ... original copyright holder who places the Program under this License may add an explicit geographical distribution limitation ...

In version 2 of the GPL this section was primarily related to U.S. export limitations from 1991. Since those limitations are now attenuated, this section is included in the draft as a section slated for removal.

- This section is essentially unmodified from version 2 of the GPL

- The FSF has no power to force anyone who licensed under "... version 2 of the GPL." to re-license under GPLv3, even though the licenses are fundamentally compatible.

- Software licensed under "either version 2, or (at your option) any later version."[a] is relicensed as GPLv3 in a decentralised and automatic manner

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[a]"at your option" does not affect downstream users

The "no warranty" sections have not been changed save to the fact that they have been re-represented in mixed case.

A first draft of the LGPL

On July 27th of 2006 a first discussion draft of the LGPL was released. As a show of the power and flexibility of the newly proposed GPLv3, the LGPL was drafted as a special case of GPLv3 by invoking section 7.

References

[1]   http://www.apache.org/licenses/LICENSE-2.0

[2]   http://www.eclipse.org/org/documents/epl-v10.php

[3]   http://gplv3.fsf.org/process-definition