



Promoting Intellectual  
Property Rights in the  
ASEAN Region

# A story of the role of Universities in Open Innovation: IP and Open Source movement

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## Overview

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1. The advent of software (early 1960's to early 1980's)
2. The Free Software Foundation (1980s - early 1990s)
3. Four Essential Freedoms of Free Software
4. GNU General Public License (GNU GPL)
5. “Schism” Free Software / Open Source in late 1990s

“Open source software is **made by many people** and distributed under an [...] -compliant license which **grants all the rights** to use, study, change, and share the software in modified and unmodified form.”

## 1. The advent of software (early 1960's to early 1980's)

- Software opened a myriad of opportunities for research institutions
- The decision of protecting software as copyright had some obvious shortcomings for research institutions:
  - Need to infringe – execute the code – to analyse it (no bolar-like exception)
  - Any improvement need to be made over the code – infringement
  - Improvements are of no use without the authorisation to run the program
- Two academic institutions lead the way for copyright-compliant licenses which enable research-related uses:
  - U. Berkley: Berkley Software Distribution (BSD).
  - MIT: Richard Stallman works in GNU

## 1. The advent of software (early 1960's to early 1980's)

### Some remarks:

- Happened BEFORE the Bayh-Dole act
- Software is a complex technology
  - builds over trial&error processes
  - needs thousands of infringing iterations to build a product
  - its more prone to cooperation (open innovation)
    - small community / large community / prosumers

## 2. The Free Software Foundation (1980s - early 1990s)

- Richard Stallman leaves MIT and creates Free Software Foundation in 1983 – but MIT offers him their facilities.
- GNU GPL License is first published in 1989

“When I speak of free software, I’m referring to freedom, not price. So think of free speech, not free beer.”

## 3. Four Essential Freedoms of Free Software

- 1) The freedom to **run the program**.
- 2) The freedom to **study how the program works**, and **change it** so it does your computing as you wish.
- 3) The freedom to **redistribute copies** so you can help your neighbor.
- 4) The freedom to **distribute copies of your modified versions** to others.

(Richard M. Stallman, “Four Freedoms”)

## 4. GNU General Public License (GNU GPL)

- The code and the four freedoms “become legally inseparable” - anybody who uses a code licensed under GNU GPL needs to share the result in the same terms (copyleft).
- Two big problems:
  - Any software based on a GNU GPL cannot be used for commercial purposes
  - Any combination of a software with a GNU GPL becomes troublesome – it “inherits” the license



## 5. “Schism” Free Software / Open Source in late 1990s

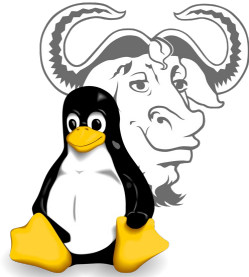
### Open Source Initiative:

1. Free Redistribution
2. Source Code
3. Derived Works
4. Integrity of The Author's Source Code
5. No Discrimination Against Persons or Groups
6. No Discrimination Against Fields of Endeavor
7. Distribution of License
8. License Must Not Be Specific to a Product
9. License Must Not Restrict Other Software
10. License Must Be Technology-Neutral

## Some examples



APACHE



android

Source: Wikimedia Commons

## 6. Some further reading...

- Bretthauer D. (2001) Open Source Software: A History
- Fitzgerald B (2006): The Transformation of Open Source Software
- Stallman R. (2009): Why “open source” misses the point of free software



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**THANK YOU**

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