

Software & Work(s)

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EOLE

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THREE LAYERS

The "thing"	Software / Work
The document	License
The law	Copyright

SHIFTING BORDERS

today

New software

New Licenses

New Copyright

GPL
an interesting case study

GPL v. 2

Program

Work based on the Program

Derivative work

GPL v. 2

Program (Section 0)

..any program or other work which contains a notice placed by the copyright holder saying it may be distributed under the terms of this General Public License..

Computer Program in US Copyright Act

Section 101:

a set of statements or instructions
to be used directly or indirectly in
a computer in order to bring about a
certain result

Computer Program
in EU Directive
2009/24/CE (former 91/250/CE)

Article 1 (Object of protection)
the term 'computer programs` shall
include their preparatory design
material

GPL v. 2

But

"the thing"

=

Program or other work

So

What is a work ?

GPL v. 2

In copyright laws
creative work
(new and original)

GPL v. 2

Work based on the Program (Section 0)

..either the Program or any derivative work under copyright law: that is to say, a work containing the Program or a portion of it, either verbatim or with modifications and/or translated into another language..

GPL v. 2

Derivative work (Section 102 US)
a work based upon one or more preexisting works, such as ... , or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship, is a "derivative work"

GPL v. 2

Derivative work

Nothing in EU Directive
2009/24/CE (former 91/250/CE)

GPL v. 2

Section 2

You may modify your copy or copies of the Program or any portion of it, thus forming a work based on the Program, and copy and distribute such modifications or work under the terms of Section 1 above, provided that you also meet all of these conditions:

GPL v. 2

If a modification
is not a "creative work" ?

Is it a "work based on the Program" ?

(in practice no big problem)

GPL v. 2

Section 2

These requirements apply to the modified work as a whole. If identifiable sections of that work are not derived from the Program, and can be reasonably considered **independent and separate works** in themselves, then this License, and its terms, do not apply to those sections when you distribute them as separate works.

GPL v. 2

Section 2

..it is not the intent of this section to claim rights or contest your rights to work written entirely by you; rather, the intent is to exercise the right to control the distribution of derivative or **collective** works based on the Program. In addition, mere aggregation of another work not based on the Program with the Program (or with a work based on the Program) on a volume of a storage or distribution medium does not bring the other work under the scope of this License.

GPL v. 2

If works are distributed
together and interact ?

Collective works

Static & Dynamic linking debate

Many years later..

New "things"

New copyright
(EU law,
Right of making available,
etc.)

GPL v. 3

Section 0. Definitions

"The Program" refers to any copyrightable work licensed under this License.

(express reference to copyright)

GPL v. 3

Section 0. Definitions

"covered work" means either the unmodified Program or a work based on the Program.

GPL v. 3

Section 0. Definitions

To "modify" a work means to copy from or adapt all or part of the work in a fashion requiring copyright permission, other than the making of an exact copy. The resulting work is called a "modified version" of the earlier work or a work based on the earlier work.

(No "derivative work")

GPL v. 3

Section 0. Definitions

To "propagate" ...

To "convey" ..

GPL v. 3

Section 5. Conveying Modified Source Versions

You may convey a work based on the Program, or the modifications to produce it from the Program, in the form of source code under the terms of section 4, provided that you also meet all of these conditions:..

GPL v. 3

Section 5. Conveying Modified Source Versions

A compilation of a covered work with other separate and independent works, which are not by their nature extensions of the covered work, and which are not combined with it such as to form a larger program, in or on a volume of a storage or distribution medium, is called an "aggregate" if ... Inclusion of a covered work in an aggregate does not cause this License to apply to the other parts of the aggregate.

(rewording but the same effect)

Thank You

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