

Frequent Misunderstandings of OSS licenses V2

This document summarizes misunderstandings which are frequently appeared in articles on the internet and questions in seminars etc.

Contents are for beginners, general, and may be common to many companies.

If you have any comments about the contents of the FAQs, please join FAQ sub-WG.

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[Provided by OpenChain Japan WG (FAQ sub-WG)]

[Cooperaton by OSS License Laboratory]

General QA (Common to licenses)

If not prohibited, can I use it?

Question

An program can be downloaded at an web site on the internet. Because there is no license condition and commercial use is not prohibited, can I include the program into our product?

Answer No

- ◆ Even if downloadable for free, it is not necessarily an OSS.
- ◆ According to copyright laws, the rights to copy, modify, and distribute are solely belong to the copyright holder.
- ◆ Without permission of these rights from the copyright holder, you cannot use the program for your product.

If another section have used it, can I use it?

Question

When investigating OSSs which I can use, I found out that an OSS used by another section in my company has required function for our product. Can I regard that I can follow license condition because the another section have used that OSS?

Answer No

- ◆ Whether you can follow the license condition or not depends on the object and methods of using the OSS. You need to refer to the license condition and confirm that your use of the OSS follows the condition.
- ◆ For example, when the OSS is used only in your company, the condition for distribute does not matter. But if you include the OSS into your product, you need to follow the condition of the distribution.

Doesn't OSS relate to patent infringement?

Question

Because free use of OSS is permitted, can I think that the OSS does not relate to patent infringement?

Answer No

- ◆ Although the OSS developer licensed his patent to the OSS user, another person may have patents related to the OSS.
- ◆ Therefore, use of the OSS may constitute patent infringement.

If I contribute to OSS community,
do I need to abandon my patent?

Question

When contributing a program to OSS community, does the contributor need to abandon his patent?

Answer No

- ◆ Contributor has no duty to abandon his registered patents.
- ◆ Contributor basically cannot exercise patent against the OSS which were contributed on the premise that the contributor permits free use. But the contributor can exercise the patent against another product which is not related the OSS.

* “Exercise (the) patent” means request of injunction or compensation for damage

Is it kind to provide translated license document?

Question

An OSS license condition requires that the license document to be included when the OSS is distributed. If the license is written in foreign language, is it sufficient to provide the customer with a translation of the license?

Answer No

- ◆ You need to include the original language license provided by OSS developer. If you provide a translation as a reference, you need to clarify that the original language license is the official version.

If I install on behalf of the customer,
don't I need to follow the license condition?

Question

When I download an OSS and install it on behalf of a customer on the customer's request, do I need to care about the license condition because I provide the OSS to the customer?

Answer Yes

- ◆ If you download the OSS in an office of your company and provide it with your customer, please confirm the condition of distribution because you are distributing the OSS.

(FYI) There may be a license condition which does not regard the provision as the "OSS distribution" in case that is the customer's request.

Can I modify the license?

Question

The OSS license contains a condition that the customer cannot follow. Can I delete the condition when I distribute the OSS?

Answer No

- ◆ Only the copyright holder can decide the OSS license conditions.
- ◆ OSS distributor cannot modify the OSS's license condition.

If not modified, don't I need to provide source code?

Question

Some licenses such as GPL, MPL, and EPL stipulate a duty to provide source code. As long as I don't modify the OSS, don't I need to provide source code, even though I include the OSS into a product?

Answer Yes

- ◆ The license condition of GPL, MPL, and EPL requires to provide source code when binary OSS is provided, regardless of whether the OSS is modified or not.
- ◆ Therefore, if you sell your product including binary OSS, you need to provide the source code too.

If modified, do I need to provide the modified source?

Question

If I modify an OSS, do I need to provide the modified source code to OSS community?

Answer No

- ◆ Although it depends on license, under many licenses(GPL, MPL, EPL etc.) provision of the modified source code to the community is voluntary and not a duty.
- ◆ However, you need to confirm the license condition of the OSS because the OSS developer can define the license condition.
- ◆ In case you fixed a bug, it is recommended to provide the fixed program to the OSS community in order for the community to be able to fix the original OSS. Because, if original OSS is fixed by the community, you would not need to fix the same bug in a revised version of the OSS again.

Can I provide source code by indicating the developer's URL?

Question

Some licenses such as GPL, MPL, and EPL stipulate a duty to provide source code. When I include an OSS into a product, is it sufficient to indicate the URL of a download site of the OSS developer?

Answer No

- ◆ The company using the OSS has the duty to provide source code. Therefore, the company selling a product which includes OSS binary needs to provide the source code too.
- ◆ The source code need to be provided for sure. For example, you can provide it by downloading from a site that your company can control.

(FYI)

When the OSS is revised, the source code may not to be able to be downloaded or link may be broken at OSS developer's download site.

Is it OK to copy a license from OSI site?

Question

The OSS download site indicates MIT LICENSE is applied, but there are no license document on the site. Is it OK to copy MIT License from OSI's site and distribute the OSS with the copy?

Answer No

- ◆ The OSI's site introduces samples of MIT license and BSD license, and copyright notice is also just a sample(see next slide). Because MIT license requires distribution of license document that includes copyright notice of the OSS, creation year and copyright holder name need to be written.
- ◆ Firstly, please confirm whether a license document is contained in the downloaded OSS files.

(Supplement) Sample in the OSI site

It's NG to copy the sample of OSI site and distribute it(MIT, BSD etc.)

⇒ The formal license is included in the OSS by the developer

The MIT License (MIT)

Copyright (c) <year> <copyright holders>

Permission is hereby granted, free of charge, to all persons obtaining a copy of the Software and associated documentation files (the "Software") without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the Software, and to permit persons to whom the Software is furnished to do so, subject to the following conditions:

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**No copyright notice
(year and copyright holder)**

Whom should I make the source code available for?

Question

In distributing a program using OSS which requires its source code to be published, do I have to make it available for people worldwide, e.g. on the internet?

Answer No

You must check the licensing terms carefully. The majority of such OSS licenses require you to make the source code available to the recipients of your program (with or separate from the binary), however, there are others that requires you to contribute the source code to the OSS development community (if you make modifications), or that entitles anybody who requests you to provide the source code.

Should I abide by the license of the compiler I use?

Question

When I write a program from scratch and compile it using an OSS compiler, does the output binary become covered by the license of the compiler?

Answer No

Unless any portion of the OSS compiler is combined in your output binary, you do not need to abide by the OSS license.

[See Also]

GCC* runtime library exception:

• Where can I obtain detailed information on GCC runtime library exception?

<https://www.gnu.org/licenses/gpl-faq.ja.html#LibGCCException>

• "Questions and Answers on OSS use and legal issues in the IoT era" published by SOFTIC: "D-3-2-2: GPL compliance when linking GCC runtime library"

http://www.softic.or.jp/ossqa/all_180328_mc.pdf

Which license should I apply when a OSS module consists of multiple components?

Question

The OSS module I intend to embed in the product consists of multiple OSS components. Do I need to abide by each and every OSS license?

Answer Yes

You must thoroughly check the licensing terms of each component, then abide by all of them.

【Related information】

How should I deal with OSSs that adopt incompatible licenses?

How should I deal with OSSs that adopt incompatible licenses?

Question

I will use OSS_A which consists of OSS_B and OSS_C. License of the OSS_B has propagativity and license of OSS_C is incompatible to the license of OSS_B. Can I use the OSS_A in our product?

Answer No

When OSS_B adopts a license that has propagativity, all other OSSs to which the license propagates need to adopt compatible license.

If the license of OSS_B propagates to OSS_C adopting incompatible license, sale of the product using the OSSs violates the licenses.

(Supplement) In this case, original OSS_A is violating the licenses, but the person who sells the product also violates the license.

Am I exempt from the T&Cs of nonfunctional OSS embedded in the product?

Question

I embedded an OSS module that never functions in a commercial product. Am I exempt from conforming to the licensing T&Cs of such OSS in this case?

Answer No

You must conform to the licensing T&Cs because you distributed (or intend to distribute) the OSS regardless of it being nonfunctional. If the OSS is not distributed yet, you may remove the OSS from the product along with the obligation to abide by the T&Cs.

When auto-generated part of your program matches with GPL?

Question

I found a portion of my program, automatically generated with a proprietary development tool, matching with a GPLed OSS which turned out to have been generated by the same tool. Do I have to abide by GPL in distributing my program?

Answer No

Since your program is not based on the GPLed OSS, you do not have to abide by GPL.

What should I do if the OSS license that we use is changed in the new version?

Question

*Apache2.0 : Apache License V2.0

We provide applications including Apache 2.0* OSS. The license of OSS of Apache 2.0 has changed to GPLv2 with new version. Does OSS used by our application need to comply with the requirements of GPLv2?

Answer No

As long as you keep using the version of OSS with Apache 2.0 applied, Apache 2.0 is still available.

(Reference)

As a general rule as above. However, when relaxing the conditions like FreeBSD, there are cases where notice of change of licensing condition is announced to the old version as well.

<https://www.freebsd.org/copyright/license.html>

How should I deal with dual license?

Question

If an OSS is distributed under two different licenses(dual license), do I need to comply with those two license?

Answer No

In the case of dual license, generally, OSS users can select a license to be applied. However, selectable license may be limited based on usage situation and combination with other OSS.

And, although dual license is indicated, some OSS requires that both license conditions are applied. In this case all of the both license conditions need to be satisfied.

Please check whether there are any descriptions about license in Readme file or related information such as FAQs etc. of development community.

Related to BSD

Does the BSD license require only copyright notice?

Question

I have heard that “an OSS under BSD license can be freely used only by indicating copyright notice.” When I use the OSS in our product, is it OK for me to just retain the copyright notice?

Answer No

- ◆ BSD license requires to retain the copyright notice, the list of conditions and the disclaimer. That is, the whole license document needs to be retained.
- ◆ Also other conditions stipulated in the license need to be followed.
- ◆ Because some people mistakenly understand that only the copyright notice is required, it is important to confirm the license condition by yourself.

Related to APACHE LICENSE V2

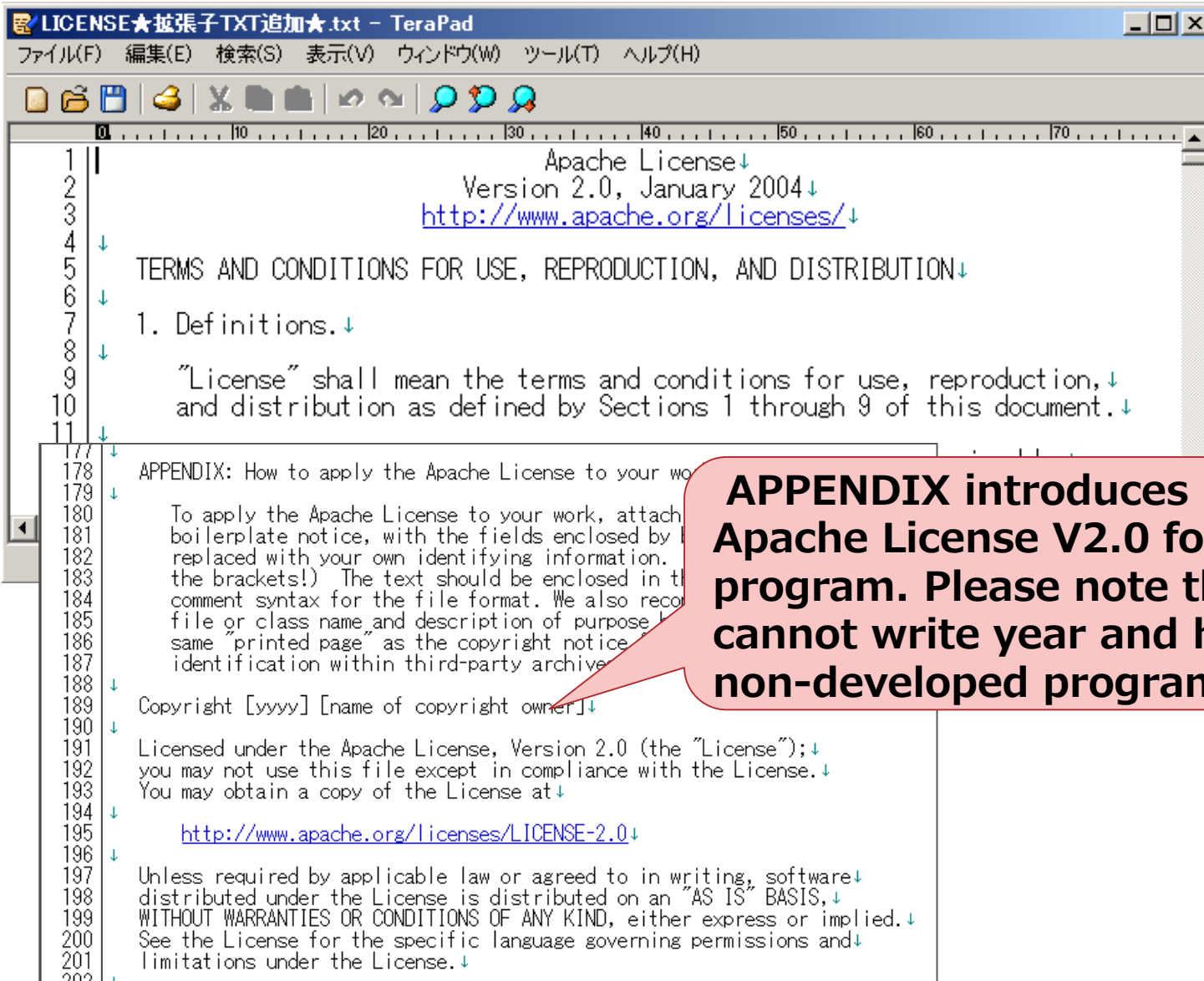
Question

In the bottom portion of the APACHE LICENSE V2.0, there is a blank for copyright notice. Is it OK to fill in the blank with copyright notice when distribute the OSS? (See the next slide)

Answer No

- ◆ The blank etc. in the APPENDIX of the APACHE LICENSE V2.0 is not a blank to fill in copyright.
- ◆ The APPENDIX introduces a writing method when adopting Apache License V2.0 for originally developed program.

(Example) APPENDIX of APACHE LICENSE V2.0



```
1 Apache License↓
2 Version 2.0, January 2004↓
3 http://www.apache.org/licenses/↓
4 ↓
5 TERMS AND CONDITIONS FOR USE, REPRODUCTION, AND DISTRIBUTION↓
6 ↓
7 1. Definitions.↓
8 ↓
9 "License" shall mean the terms and conditions for use, reproduction,↓
10 and distribution as defined by Sections 1 through 9 of this document.↓
11 ↓
177 ↓
178 APPENDIX: How to apply the Apache License to your work
179 ↓
180 To apply the Apache License to your work, attach
181 boilerplate notice, with the fields enclosed by
182 replaced with your own identifying information.
183 the brackets!) The text should be enclosed in the
184 comment syntax for the file format. We also recommend
185 file or class name and description of purpose for
186 same "printed page" as the copyright notice for
187 identification within third-party archives.
188 ↓
189 Copyright [yyyy] [name of copyright owner]↓
190 ↓
191 Licensed under the Apache License, Version 2.0 (the "License");↓
192 you may not use this file except in compliance with the License.↓
193 You may obtain a copy of the License at↓
194 ↓
195 http://www.apache.org/licenses/LICENSE-2.0↓
196 ↓
197 Unless required by applicable law or agreed to in writing, software↓
198 distributed under the License is distributed on an "AS IS" BASIS,↓
199 WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied.↓
200 See the License for the specific language governing permissions and↓
201 limitations under the License.↓
202 ↓
```

APPENDIX introduces how to adopt Apache License V2.0 for an original program. Please note that distributor cannot write year and his name for non-developed program.

Related to GPL

Does GPL prohibit sale?

Question

When OSS under GPL is used in a product, can I sell the product for a fee?

Answer Yes

- ◆ GPL does not prohibit sales for a fee. Therefore, you can sell the product including the OSS.
- ◆ However, when the customer who bought the product copies a portion under GPL, you cannot charge royalty based on the copy and you cannot prohibited resale by the customer.

【Related information】

Does GPL allow to sale a copy of program for a fee?

Does GPL affect to dynamic linked program?

Question

When an OSS under GPL and an original program is linked statically, the original program needs to adopt GPL. In case of dynamic link, is it possible to prohibit distribution and modification of the original program?

Answer Yes

- ◆ GPL does not allow to prohibit program distribution and modification even for dynamic linked program. Such GPL conditions need to be applied.
- ◆ Free Software Foundation(FSF) which has made the GPL indicates in its FAQ(see Related information) that GPL affects to linked program regardless of the link is dynamic or static.

【Related information】

Is there different requirement in GPL for a module which is statically linked to GPL work and for a module which is dynamically linked to the GPL work?

Does GPL require description of copyright notice?

Question

When distributing the OSS which is licensed under GPL, do I need to distribute the copyright notice in addition to the license document together?

Answer Yes

SOFTIC

GPL obliges you to include appropriate copyright notice when distributing target OSS.

【Related information】

GPLv 2: Section 1

GPLv 3: Section 4

When using the GPL wrapper, how does GPL affect my own program?

Question

"GPL library": library licensed under GPL

We plan to use GPL library A for our program. This library A and my own program link via library B. Do I have to apply the GPL conditions to our program even if linking to our program by applying a less restrictive MIT license etc. to this library B?

Answer Yes

You will also have to apply the GPL condition to your own program. Since FSF publishes similar QA, please refer to the following information.

【Related information】

I'd like to incorporate GPL-covered software in my proprietary system. Can I do this by putting a "wrapper" module, under a GPL-compatible lax permissive license (such as the X11 license) in between the GPL-covered part and the proprietary part?

<https://www.gnu.org/licenses/gpl-faq.ja.html#GPLWrapper>

Related to LGPL

Does LGPL affect to statically linked program?

Question

Do I need to adopt LGPL for other program which is statically linked to an OSS under LGPL?

Answer No

You don't need to adopt LGPL for the other program. However there is a condition adopted to the program.

Please see D-3-8 of SOFTIC's [[Use of OSS in the IoT era and legal problems Q & A collection](#)] for detailed conditions of LGPL.

【Related information】

- LGPLv2.1: Section 6
- LGPLv3: Section 4

【Related information】

[Is there different requirement in GPL for a module which is statically linked to GPL work and for a module which is dynamically linked to the GPL work?](#)

Related to AGPL

Is AGPL mandatory to provide source code without distributing OSS?

Question

We plan to use the AGPL (Affero GPLv 3) OSS for services such as SaaS. Do I have to provide AGPL (Affero GPLv 3) source code without distributing OSS?

Answer Yes

1. When exchanging with a service user via a network and
 2. When AGPL OSS is modified (Note) Includes the case (AGPL) applied to other programs by link etc. (propagation).
- For propagation, refer to (D-3-1) of SOFTIC 's ["Use of OSS in the IoT era and legal problems Q & A collection"](#).

【Related information】

AGPL: Section 0, Section 5, Section 13

【QA added】

- Whom should I make the source code available for?
- Should I abide by the license of the compiler I use?
- Which license should I apply when a OSS module consists of multiple components?
- How should I deal with OSSs that adopt incompatible licenses?
- Am I exempt from the T&Cs of nonfunctional OSS embedded in the product?
- When auto-generated part of your program matches with GPL?
- What should I do if the OSS license that we use is changed in the new version?
- Does GPL require description of copyright notice?
- When using the GPL wrapper, how does GPL affect my own program?
- Is AGPL mandatory to provide source code without distributing OSS?



END

- ◆ You can make registration for Openchain-japan-wg mailing list from the following URL:
<https://lists.linuxfoundation.org/mailman/listinfo/openchain-japan-wg>
- ◆ Mailing list : `openchain-japan-wg@lists.linuxfoundation.org`