

GNU GENERAL PUBLIC LICENSE¹
VERSION 3

A GNU Addition to the Free Software License Genus

Eric J. Smith
Fraser Milner Casgrain LLP
Ottawa, Ontario

The Eleventh Annual
Canadian IT Law Association Conference
October 19, 2007
Vancouver, B.C.

¹ This version contains some additional comments in the section “The “Linking” Issue and the Reach of the GPL” from the version presented at the October 19th, 2007 conference.

On June 29, 2007, the Free Software Foundation (“FSF”) issued GNU General Public License Version 3 (“GPLv3”).² The issuance of GPLv3 marked the end of a remarkable public consultation process aimed at revamping the GNU General Public License (“GPL”)³ to address issues that the FSF considers to be a threat to the Free Software movement and to clarify issues that have been misunderstood or debated since the publications of GPL Version 2 (“GPLv2”). The result is a license that contains significant changes from GPLv2, many of which are controversial.

Brief History of the GPL

The FSF was founded in 1985 by Richard Stallman with the stated mission of “promoting computer users' rights to use, study, copy, modify, and redistribute computer programs”.⁴ In considering how best to promote such rights, the FSF concluded that simply disclaiming one’s copyright in a computer program would not adequately protect the aforementioned rights of users of a computer program. While disclaiming one’s copyright would allow others to freely use, study, copy, modify and redistribute copies of a computer program, it would not prevent others from making modifications to the computer program and enforcing their copyright in such modifications to prevent others from exercising such rights. The FSF decided that, instead of disclaiming copyright, copyright should be used to ensure that those who wish to use, study, copy, modify and redistribute copies of a computer program can do so, so long as they, in turn, do nothing to restrict others from doing the same. This concept has come to be known as “Copyleft”.⁵

² A copy of GPLv3 is attached as Exhibit A.

³ The term “GPL” is used herein to refer to the GNU General Public License in general, and not any particular version of such license.

⁴ <http://www.fsf.org/>. These rights are further expanded in the four freedoms (hereinafter referred to as the “Four Freedoms”) which the FSF uses to define Free Software. They are: “(i) 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: (iii) the freedom to redistribute copies so you can help your neighbor (freedom 2); and (iv) 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.”

<http://www.fsf.org/licensing/essays/free-sw.html>

⁵ “*Copyleft* is a general method for making a program or other work free, and requiring all modified and extended versions of the program to be free as well.” Free Software Foundation

<http://www.fsf.org/licensing/essays/copyleft.html>

In order to enable Copyleft, the FSF issued GPL Version 1 in 1989. GPLv2 was subsequently issued in 1991 and is the version that is most familiar to those who deal with computer programs licensed under the GPL. Under the terms of GPLv2, a person may freely use, study, copy and modify a computer program and has no obligation to share such modifications with anyone. If, however, a licensee distributes a copy of a computer program licensed under GPLv2, the licensee must make the source code to the computer program, including any modifications made by the licensee, available to the recipients of such copies for use under the terms of GPLv2.⁶

While the GPL is not the only example of a Free Software License or Open Source License,⁷ it is the most commonly used license of this type. It is also the license under which some of the most well known Free Software computer programs, such as the Linux kernel, are distributed.

Why Make Changes?

Despite the wide-spread use of GPLv2, the FSF concluded that GPLv2 had some shortcomings. In particular, the FSF was concerned that developments in the law since the publication of GPLv2, such as the increasing prevalence of software patents and laws prohibiting the circumvention of “Digital Rights Management” (“DRM”) technology, threatened the freedoms that it sought to protect and were not adequately addressed in GPLv2. In addition, it wished to increase the number of licenses with which the GPL is compatible so as to enlarge the pool of software code that can be combined with GPL-covered code.

Consultation and Drafting Process

On January 6, 2006, the FSF issued the first draft of GPLv3 and commenced a broad consultation process. In addition to soliciting comment from the general public, four discussion committees were formed to consult and provide input with respect to each draft of GPLv3. Consisting of more than 130 members, the four committees were organized as follows:

⁶ “or later versions”

⁷ See <http://www.fsf.org/licensing/licenses/> for list of licenses that the FSF deems to be Free Software license. See <http://www.opensource.org/licenses> for a list of licenses that are certified as “Open Source” licenses by the Open Source Initiative.

- Committee A: Representatives of major Free Software projects, such as Perl, Apache, and GNOME;
- Committee B: Representatives of major distributors of commercial versions of Free Software or hardware that works with Free Software, such as MySQL, Cisco Systems, Novell, IBM, and Red Hat;
- Committee C: Representatives of major organizational users of free software, including corporations, universities, and governments, mostly from the United States. Committee C also included experts on legal and policy issues regarding software; and
- Committee D: Members of the “hacker intelligentsia”, including Don Armstrong and Benjamin Mako Hill from Debian, and Louis Suarez-Potts of OpenOffice.org.⁸

While the FSF is often accused of been single-minded in the pursuit of its objectives, the composition of the discussion groups, and Committee B in particular, shows that the FSF understood that the credibility of the consultation and drafting process, and the subsequent adoption of GPLv3, would likely be enhanced by the inclusion of those whose interests are not always aligned with the goals of the FSF.

Following the issuance of the First Discussion Draft of GPLv3, the FSF issued the Second Discussion Draft on July 27, 2006, the Third Discussion Draft on March 28, 2007, the Last Call Draft on May 31, 2007, with the final version of GPLv3 being published on June 29, 2007. With each draft of the GPLv3, the FSF also published a “Rationale” paper in which changes made to the previous draft were summarized and which included an annotated mark-up of the current draft showing such changes. It is clear from reviewing each of the drafts and Rationale papers that a tremendous amount of thought, debate and labour went into the drafting of GPLv3. It is also evident that the consultation process has resulted in a final version of

⁸ <http://www.linux.com/articles/56554>. See also Transcript of Eben Moglen at the 3rd International GPLv3 Conference, 22nd June, 2006 – <http://fsfeurope.org/projects/gplv3/barcelona-moglen-transcript.en.html> (hereinafter referred to as “Moglen – June 22, 2006”).

GPLv3 that is much improved from the First Discussion Draft of GPLv3. As noted below, however, it is not a perfect document.

Definitions

One of the criticisms of GPLv2 is that it includes very few definitions for terms that are used in the license. In addition, though some terms used in GPLv2 have a recognized meaning under the copyright laws of one jurisdiction, the same terms can have different meanings under the copyright laws of another jurisdiction. As a result, the meanings of terms such as “derivative work” or “distribute”, as used in GPLv2, may not always be clear.

For the purpose of providing greater clarity and to better “internationalize” GPLv3, Section 0 and Section 1 of GPLv3 include definitions of some of the important terms used in the license. For example, for the purpose of identifying which actions are subject to conditions under GPLv3 and which ones are not, the FSF has coined the term “propagate” to refer to any actions for which one requires permission under copyright law (i.e., the copyright laws of the applicable jurisdiction), other than the execution of the program on a computer and the modification of a private copy of the program. In addition, instead of using the term “distribution”, the meaning of which can differ under copyright laws in other countries,⁹ GPLv3 employs the term “convey”, which means:

.....any kind of propagation that enables other parties to make or receive copies. Mere interaction with a user through a computer network, with no transfer of a copy, is not conveying.¹⁰

In addition to coining new terms, GPLv3 includes definitions for some terms that are used, but undefined, in GPLv2. For example, the phrase “corresponding source code”, used in GPLv2, is replaced in GPLv3 with the defined term “Corresponding Source”.

⁹ GPLv3 First Discussion Draft Rationale, Free Software Foundation, Copyright © 2006, (hereinafter referred to as “First Discussion Draft Rationale”), Section 2.1, p.8

¹⁰ GPLv3, Section 0.

Major Changes

As mentioned above, the FSF decided to draft a new version of the GPL to address what it perceived as threats to its stated mission of promoting computer users' rights to use, study, copy, modify and redistribute computer programs. The FSF also wished to make the GPLv3 compatible with certain types of software licenses that were not compatible with GPLv2, while still respecting the Four Freedoms¹¹ that the GPL is designed to protect. Finally, the FSF wanted to clarify certain provisions of the GPLv2 that it thought had either been misinterpreted or were incomplete.

(a) Patents

A holder of a patent can prevent a person from using a computer program that infringes such patent, even if the computer program was authored independently and without knowledge of the patent. As a result, software patents pose a significant problem to the preservation of the freedoms that the FSF seeks to protect.

The FSF clearly understood that it could not use the GPL to eliminate software patents. In addition, it recognized that patents holders can be valuable contributors to GPL-covered computer programs, so long as they do not use their patents to take away the freedoms of others to use, modify and distribute such programs. As a result, in drafting GPLv3 the FSF focused its attention on restricting users and distributors of GPL-licensed computer programs from using their patent rights against other users of such computer programs. GPLv3 seeks to accomplish this goal in the following ways: (i) an explicit grant of patent license; (ii) a limited retaliation clause; (iii) the requirement to extend patent licenses; and (iv) restrictions on discriminatory patent licenses. In reviewing the various drafts and Rationale documents, it is clear that the patent related provisions of GPLv3 were amongst the most heavily debated provisions in the new version of the license.

¹¹ Supra, note 4.

(i) Explicit license

Unlike in GPLv2, the FSF has included an explicit grant of patent license in GPLv3. Based on earlier drafts of GPLv3, the FSF had at one time intended to impose on all persons who distributed a copy of a GPL-covered program, including copies of unmodified programs, the obligation to grant a license of any of their patents that would be infringed by the use of such program. Section 11 of Draft 2 of GPLv3 read, in part:

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.¹²

However, many patent holders objected to the breath of this policy on the basis that: (1) the impact on the patent holder was disproportionate to the benefit the patent holder received from merely distributing unmodified versions of the computer program, and (2) that it was unreasonable to expect a holder of a vast number of patents to exercise the diligence required to review all GPL-covered software that it distributes and determine the consequences of such distribution on its patent portfolio.¹³

While rejecting the “disproportionate” argument, the FSF agreed to make a concession with respect to the second objection. Section 11 of the published version of GPLv3 now reads:

Each contributor¹⁴ grants you a non-exclusive, worldwide, royalty-free patent license under the contributor’s essential patent claims, to make, use, sell, offer for sale, import and otherwise run, modify and propagate the contents of its contributor version.

¹² It is also interesting to note that Section 11 of Draft 2 of GPLv3 did not provide for a grant of license, but rather a covenant not to sue. This language was revised in Draft 3 of GPLv3 in response to the concerns of some commentators that a personal covenant would not be enforceable if the copyright of such work were later assigned to another person.

¹³ GPLv3 Third Discussion Draft Rationale, Free Software Foundation, Copyright © 2007, p.17 (hereinafter referred to as “Third Discussion Draft Rationale”).

¹⁴ The term “contributor” is defined in Section 11 of GPLv3 as “a copyright holder who authorizes use under this License of the Program or a work on which the Program is based. The work thus licensed is called the contributor’s ‘contributor version’”.

The grant of patent license only applies to those persons who distribute versions of the program that they have modified. It is important to note, however, that the patent license covers the entire work and not just the portions modified by the distributor.

While the changes to the patent license policy addressed some of the concerns raised by commentators, patent holders who distribute modified versions of GPLv3-covered software will still have to institute and follow appropriate diligence procedures to ensure that they do not inadvertently grant a license to one or more of their patents.

(ii) Retaliation Clause

A patent retaliation clause provides that the license to use the computer program is terminated if a licensee brings a claim for patent infringement against the licensor. Retaliation clauses can be either narrow in scope, by restricting its effect to claims of infringement that relate to the licensed program, or broad and result in the termination of the license if the licensee brings a claim against the licensor for any patent infringement, regardless of whether or not it relates to the licensed program or some other program or technology. GPLv3 adopts a narrow retaliation approach which is implemented through the interaction of Section 10 and Section 8 of GPLv3.

The third paragraph of Section 10 states that: "...you may not initiate litigation (including a cross-claim or counter-claim in a lawsuit) alleging that any patent claim is infringed by making, using, selling, offering for sale, or importing the Program or any portion of it." Under the termination provisions of Section 8, the permission to use a GPLv3-covered program is terminated if a licensee brings an infringement claim regarding such program in violation of the aforementioned restriction in Section 10.

(iii) Extension of Patent License

Another instance in which software patents can threaten the freedoms which the GPL aims to protect is where a distributor of a GPL-covered computer program enters into an agreement with the holder of a patent that is essential to the use of such program whereby the patent holder covenants not to sue, or otherwise grants permission to, the distributor for its use

and distribution of the program. If such agreement does not extend to down-stream users of the program, the distributor will be in the position of being able to exercise the freedoms provided under GPL, but down-stream users will not.

To address this inequity, the FSF concluded that the recipient of a license to a patent that would otherwise be infringed by the use and distribution of a GPLv3-covered work must, as a condition to distributing such work, take certain actions to protect down-stream users. In the First Discussion Draft of GPLv3, Section 11 stated, in part:

If you distribute a covered work knowingly relying on a patent license, you must act to shield downstream users against the possible patent infringement claims from which your license protects you.

Not surprisingly, many commentators expressed concern as to what it means “to shield” downstream users. These words did not find their way into the final version of GPLv3, and instead, Section 11 now states that if the source code for the affected work “is not available for anyone to copy, free of charge and under the terms of this License”, the beneficiary of such a license must either arrange to deprive itself from the benefit of the patent license for the affected program or arrange to extend the license to downstream recipients. As a third alternative, the beneficiary of the license may cause the source code to the program to be made available for anyone to copy, free of charge and under the terms of GPLv3.

The words “knowingly relying on” were included to provide some comfort to those persons who have entered into blanket cross-licensing arrangements with others whereby they might not even know what patents have been licensed to them. In the Third Discussion Draft of GPLv3, the following definition of “knowingly relying” was added to Section 11:

“Knowingly relying” means you have actual knowledge that, but for the patent license, your conveying the covered work in a country, or your recipient’s use of the covered work in a country, would infringe one or more identifiable patents in the country that you have reason to believe are valid.

With respect to the three alternative actions that a person who knowingly relies on a patent license must take, it is not clear what is meant by “arrange to deprive yourself of the

benefit of the patent license for this particular work” or how one is to go about doing so.¹⁵ In the Final Rationale, the FSF suggests that one can deprive oneself of the patent license by ceasing royalty payments and repudiating the license.¹⁶ However, repudiating the license, may not be an attractive option if the license is structured such that one must repudiate the entire license and not only the license as it relates to the specific GPL-covered program.

As with the grant of patent license provision discussed in paragraph (a)(i) above, the down-stream licensee protective provisions of Section 11 will require companies that are the beneficiaries of patent licenses to carefully consider the impact of Section 11 on such patent licenses and their use of GPLv3-covered code. They will have to determine whether any of the patents for which they have a license are infringed by GPLv3-covered programs that they distribute and, if so, take one of the alternative actions prescribed in Section 11.

(iv) Discriminatory Patent Licenses

In November 2006, Microsoft and Novell announced that they had entered into a broad business, technical and patent cooperation agreement under which, among other things, Microsoft agreed not to assert its patents against users of Novell’s SUSE Linux Enterprise Server product; provided such users do not make or distribute additional copies of such program.¹⁷ Under the deal, Microsoft purchased coupons from Novell for support services for SUSE Linux Enterprise Server which Microsoft can distribute or sell as it sees fit. In return, Microsoft covenants to the recipients of the coupons (i.e., the end users) not to sue them for patent infringement in connection with their use of SUSE Linux Enterprise Server. By structuring the deal as a covenant not to sue made by Microsoft to end users, rather than a grant of a patent license to Novell, the parties sought to by-pass or restrict the provisions of the GPL that would permit the further redistribution of copies of the GPL-covered programs by the end users and that would require Novell to cease distribution of GPL-covered programs in SUSE Linux Enterprise Server if it could not extend the benefit of a patent license to down-stream recipients of copies of such programs.

¹⁵ This phrase was inserted in the final text of GPLv3 to replace earlier references to “disclaiming” the patent license which some commentators considered to be too unclear. GPLv3 Final Rationale, (hereinafter referred to as the “Final Rationale”) Free Software Foundation, Copyright © 2007, p.17.

¹⁶ Ibid.

¹⁷ Third Discussion Draft Rationale, p.25.

In the opinion of the FSF, the Microsoft/Novell deal, and any similar arrangements, threaten the goals of the FSF and have the effect of making the affected GPL-covered program proprietary:

If users are frightened into paying that one distributor just to be safe from lawsuits, in effect they are paying for permission to use the program. They effectively deny even these customers the full and safe exercise of some of the freedoms granted by the GPL. And they make disfavoured free software developers and distributors more vulnerable to attacks of patent aggression, by dividing them from another part of our community, the commercial users that might otherwise come to their defense.¹⁸

The announcement of the Microsoft/Novell deal took place while GPLv3 was still in draft form and resulted in a delay in the release of the next discussion draft while the FSF considered its reaction. In March, 2007, the FSF issued the GPLv3 Third Discussion Draft, which included additional provisions to address the threat posed by the Microsoft/Novell deal.

Paragraph 6 of the final version of GPLv3, provides the following:

If, pursuant to or in connection with a single transaction or arrangement, you convey, or propagate by procuring conveyance of, a covered work, and grant a patent license¹⁹ to some of the parties receiving the covered work authorizing them to use, propagate, modify or convey a specific copy of the covered work, then the patent license you grant is automatically extended to all recipients of the covered work and works based on it.²⁰

The inclusion of the above provision in the draft and final versions of GPLv3 resulted in much public debate regarding its effect on the Microsoft/Novell deal. As Microsoft is distributing support coupons which users can redeem to Novell for upgrades to SUSE Linux, and not actual copies of the software, some commentators argue that this provision cannot be enforced against Microsoft.²¹ Conversely, the FSF argues that the distribution of coupons is a

¹⁸ Third Discussion Draft Rationale, p.23.

¹⁹ The term “patent license” is defined as “any express agreement or commitment, however denominated, not to enforce a patent (such as an express permission to practice a patent or covenant not to sue for patent infringement)”. While to “grant” means “to make such an agreement or commitment not to enforce a patent against the party.” See paragraph 6 of Section 11 of GPLv3.

²⁰ An slightly different version of this provision was first introduced to GPLv3 as the fourth paragraph to the GPLv3 Third Discussion Draft.

²¹ <http://blog.seattlepi.nwsourc.com/microsoft/archives/115505.asp> Patent lawyer Richard Wilder, intellectual property counsel to the Association for Competitive Technology (of which Microsoft is a member): "They're not

form of distribution and, since the coupons do not have an expiry date, it is almost assured that at least one coupon holder will redeem the coupon after SUSE Linux is released under GPLv3.²² At such time, the FSF claims, Microsoft will become subject to the patent licensing provision.

Regardless of the merits of each argument, it is clear that the uncertainty regarding the effect of such provision has had an effect. In its Annual Report For the Fiscal Year Ended October 31, 2006, Novell stated the following:

If the final version of GPLv3 contains terms or conditions that interfere with our agreement with Microsoft or our ability to distribute GPLv3 code, Microsoft may cease to distribute SUSE Linux coupons in order to avoid the extension of its patent covenants to a broader range of GPLv3 software recipients, we may need to modify our relationship with Microsoft under less advantageous terms than our current agreement, or we may be restricted in our ability to include GPLv3 code in our products, any of which could adversely affect our business and our operating results. In such a case, we would likely explore alternatives to remedy the conflict, but there is no assurance that we would be successful in these efforts.²³

On July 5, 2007, Microsoft issued a press release regarding the controversy that, although it strenuously denied the applicability of GPLv3 to Microsoft, stated, in part:

At this point in time, in order to avoid any doubt or legal debate on this issue, Microsoft has decided that the Novell support certificates that we distribute to customers will not entitle the recipient to receive from Novell, or any other party, any subscription for support and updates relating to any code licensed under GPLv3. We will closely study the situation and decide whether to expand the scope of the certificates in the future.²⁴

The GPLv3 also addresses the issue of discriminatory patent licenses in another manner. Section 11, paragraph 7 of the GPLv3 states:

distributing Linux," Wilder said. "They're providing somebody access to a service but they're not providing copies of Linux on a disk, and they're not providing somebody access to Linux for the purpose of download, and so they're not engaged in any distribution."

²² Note that the Linux kernel is currently licensed under GPLv2 and public statements by Linus Torvalds, the individual who oversees the Linux kernel development, indicate that it is unlikely that the Linux kernel will be released under GPLv3. However, the SUSE Linux distribution includes other components that are licensed under the GPL and that are likely to migrate to GPLv3.

²³ <http://www.sec.gov/Archives/edgar/data/758004/000095013407012375/f26782e10vk.htm>

²⁴ Microsoft Statement About GPLv3, July 5, 2007, <http://www.microsoft.com/presspass/misc/07-05statement.mspx?pf=true>

A patent license is "discriminatory" if it does not include within the scope of its coverage, prohibits the exercise of, or is conditioned on the non-exercise of one or more of the rights that are specifically granted under this License. You may not convey a covered work if you are a party to an arrangement with a third party that is in the business of distributing software, under which you make payment to the third party based on the extent of your activity of conveying the work, and under which the third party grants, to any of the parties who would receive the covered work from you, a discriminatory patent license (a) in connection with copies of the covered work conveyed by you (or copies made from those copies), or (b) primarily for and in connection with specific products or compilations that contain the covered work, unless you entered into that arrangement, or that patent license was granted, prior to 28 March 2007.

This paragraph is intended to prevent other parties from entering into arrangements that are similar to the Microsoft/Novell deal. If a distributor of a GPLv3-covered program enters into such an arrangement, the consequence would be the termination of licenses granted to it under GPLv3.

One interesting aspect of Section 11, paragraph 7, is that it applies only to prohibited arrangements that were entered into after March 28, 2007 (i.e., the date of issuance of the Third Discussion Draft) and, therefore, does not apply to the Microsoft/Novell transaction. The FSF decided to include this cut-off date because it was concerned that the provision could have an adverse effect on other types of agreements that were entered into prior to such date and that were not the intended target of this provision.²⁵ Secondly, the FSF concluded that, since Section 11, paragraph 6, applies to the Microsoft/Novell deal, allowing Novell to use software under GPLv3 would be more beneficial to the Free Software community than barring Novell from doing so.²⁶

(b) **Digital Rights Management**

Digital Rights Management ("DRM") is a term that is used to generally describe any system or method of protecting copyrighted or other proprietary material or data. The FSF views DRM, which it refers to as "Digital Restrictions Management" as "fundamentally at odds

²⁵ GPLv3 Final Discussion Draft Rationale, Free Software Foundation, May 31, 2007, p10.

²⁶ Ibid.

with the spirit of the free software movement”²⁷ and DRM technology as “simply a prison in which users can be put to deprive them of the rights that the law would otherwise allow them.”²⁸ While the FSF can not outlaw the implementation of DRM-technology, in drafting GPLv3 it sought to prevent the use of GPL-covered computer programs from being used in such a manner.

(i) Technical Restrictions

The FSF often cites of TiVo as an example of the ways in which GPL-covered computer programs are being used as part of DRM systems. TiVo, a personal digital recorder most often used to digitally record television programs, includes GPL-covered computer programs. Pursuant to the terms of the GPL, TiVo provides the source code to such computer programs and users are permitted to make modifications to the programs. However, if a user does make modifications to the software and attempts to run such modified software on the TiVo hardware, the TiVo system will not operate. The affected TiVo system performs a check sum of the software in order to verify that it is an authorized version of the software. If the software is not so verified, the system will not operate.²⁹

To address its concern with GPL-covered software being used as part of a system that employs DRM technology, Section 6 of GPLv3 includes the following:

A "User Product" is either (1) a "consumer product", which means any tangible personal property which is normally used for personal, family, or household purposes, or (2) anything designed or sold for incorporation into a dwelling. In determining whether a product is a consumer product, doubtful cases shall be resolved in favor of coverage. For a particular product received by a particular user, "normally used" refers to a typical or common use of that class of product, regardless of the status of the particular user or of the way in which the particular user actually uses, or expects or is expected to use, the product. A product is a consumer product regardless of whether the product has substantial commercial, industrial or non-consumer uses, unless such uses represent the only significant mode of use of the product.

"Installation Information" for a User Product means any methods, procedures, authorization keys, or other information required to install and execute modified versions of a covered work in that

²⁷ First Discussion Draft Rationale, p. 3.

²⁸ Ibid.

²⁹ Transcript of Richard Stallman speaking on GPLv3 in Torino, 18th March 2006, as transcribed by Ciaran O’Riordan. <http://fsfeurope.org/projects/gplv3/torino-rms-transcript.en.html>

User Product from a modified version of its Corresponding Source. The information must suffice to ensure that the continued functioning of the modified object code is in no case prevented or interfered with solely because modification has been made.

If you convey an object code work under this section in, or with, or specifically for use in, a User Product, and the conveying occurs as part of a transaction in which the right of possession and use of the User Product is transferred to the recipient in perpetuity or for a fixed term (regardless of how the transaction is characterized), the Corresponding Source conveyed under this section must be accompanied by the Installation Information. But this requirement does not apply if neither you nor any third party retains the ability to install modified object code on the User Product (for example, the work has been installed in ROM).

Earlier drafts of GPLv3 attempted to deal with the issues addressed above by providing that the Corresponding Source (i.e., the source code distributed or made available by all distributors under the GPL) must include any encryption or authorization keys necessary to install and/or execute modified versions such that they enable similar use as unmodified versions of the computer program.³⁰ Such an approach was resisted by companies and governments who use specialized computer facilities which they do not wish to be under their control. As a compromise, the FSF introduced the concept of a “User Product” in Discussion Draft 3 of GPLv3 to restrict the effect of this provision to products where technical restrictions are predominantly used and of the most concern.³¹

The definition of “User Product” is based primarily on the definition of “consumer product” in the *Magnuson-Moss Warranty Act*, a federal consumer protection law in the United States.³² By focusing on the “normal” use of the product, rather than the type of user, the provision does not discriminate among categories of users. As a result, the provision applies to any product falling under the definition of User Product regardless of the intended or actual use by the end user or the fact that it can also be used in ways other than as a “consumer product”.

³⁰ GPLv3 Second Discussion Draft Rationale (hereinafter referred to as “Second Discussion Draft Rationale”), Free Software Foundation, Copyright © 2006, Section 1, paragraph.

³¹ Third Discussion Draft Rationale, p10.

³² *Ibid.* However, the reference to such statute was removed from later drafts of GPLv3 as many commentators objected to the inclusion of a U.S. statutory reference in the GPL

Some commentators objected to the requirement to provide “Installation Information” in cases where the object code of GPL-covered compute program is distributed as part of a product in a manner that does not allow for the installation of modified versions of the object code (e.g. code burned in ROM).³³ As a result, the words “[b]ut this requirement does not apply if neither you nor any third party retains the ability to install modified object code on the User Product (for example, the work has been installed in ROM)” were added to Section 6. The obligation to provide “Corresponding Source”, however, continues to apply.

Commentators also raised concerns regarding the ability to implement denial of access policies in cases of modifications to Users Products that could cause harm to networks on which they are designed to work. In response to such concerns, and recognizing the legitimate needs of network providers,³⁴ the following language was added to Section 6 of GPLv3:

Access to a network may be denied when the modification itself materially and adversely affects the operation of the network or violates the rules and protocols for communication across the network.

Finally, in order to clarify that the term “continued functionality” does not include the obligation to provide support and updates for such computer program, Section 6 of GPLv3 includes the following:

The requirement to provide Installation Information does not include a requirement to continue to provide support service, warranty, or updates for a work that has been modified or installed by the recipient, or for the User Product in which it has been modified or installed.

Reaction to the anti-DRM provisions of GPLv3 have been mixed, with some criticizing the FSF for what they regard as the FSF trying to control how people design their hardware. For example, Linus Torvalds posted the following on the Linux kernel mailing list:

The GPLv3 doesn't match what I think is morally where I want to be. I think it is okay to control people's hardware, I do it myself.³⁵

³³ Third Draft Discussion Rationale, p13.

³⁴ Ibid, p14.

³⁵ Quoted in “Linux Creator Calls GPLv3 Authors ‘Hypocrites’ As Open Source Debate Turns Nasty”, by Paul McDougall,

For critics such as Mr. Torvalds, a requirement that modified code be operational on the distributor's hardware is unacceptable. In their view, there is nothing stopping a person who wishes to make modifications to the program from making their own hardware devices on which to run such modified code. Those who support the anti-DRM provisions counter that if the hardware manufacturers wish to restrict others from making modifications to the software that runs on their hardware, all they have to do is develop their own proprietary software and not use GPL-covered software.³⁶

(ii) **Anti-Circumvention Laws**

The freedoms to use, modify and distribute GPL-covered software programs are not only threatened by the use of technological measures to restrict modification, but also affected by various laws which make it illegal to circumvent such technological measures. For example, in 1998, the United States enacted the *Digital Millennium Copyright Act* ("DMCA") which, among other things, made it illegal to produce and disseminate technology, devices or services used to circumvent DRM technology, and criminalized the act of circumventing DRM technology, even where the subsequent use of the protected material does not infringe copyright. Similarly, in 2001, the European Union passed "The Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society", commonly known as the EU Copyright Directive (EUCD), which includes anti-circumvention provisions similar to those in the DMCA.³⁷

As with software patents, the FSF recognized that the GPL cannot override anti-circumvention laws. Instead, it has attempted to characterize the programs that are licensed under GPLv3 such that they are will not be governed by the DMCA and similar laws.

http://www.informationweek.com/blog/main/archives/2007/07/linux_creator_c.html

³⁶ TiVo warned in its annual report for the fiscal year ended January 31, 2007 that changes to the GPLv3 could prevent it from incorporating future enhancements to the GNU/Linux operating system into its products. See <http://www.sec.gov/Archives/edgar/data/1088825/000119312507081563/d10k.htm>

³⁷ EUCD, Chapter III, Article 6.

Section 3, paragraph 1 of GPLv3 states:

No covered work shall be deemed part of an effective technological measure under any applicable law fulfilling obligations under article 11 of the WIPO copyright treaty adopted on 20 December 1996, or similar laws prohibiting or restricting circumvention of such measures.³⁸

The choice of the words “effective technological measure” appear to have been chosen in light of the wording used in anti-circumvention legislation, such as the DMCA and EUCD, which focus on the effect of technology. For example, the DMCA states, in part that:

No person shall circumvent a technological measure that effectively controls access to a work protected under this title. [emphasis added]³⁹

Chapter III, Article 6 of the EUCD also refers to “effective technological measures” and states that:

Technological measures shall be deemed "effective" where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective.

By including a statement in GPLv3 that the licensed program shall not be deemed to be “part of an effective technological measure”, the FSF hopes that any court considering the applicability of the anti-circumvention law to GPLv3-covered work will take into consideration the stated intention of the licensor.⁴⁰ Whether a statement of intention will be effective in making anti-circumvention legislation inapplicable to GPLv3-covered software remains to be seen.

³⁸ The DMCA and EUCD were both created in response to WIPO copyright treaty.

³⁹ §1201 A(1)(a) of Title 17 of the United States Code.

⁴⁰ Section 3 of GPL Discussion Draft 1 of Version 3, 16 January 2006, included the following statement of intention that was later struck from GPLv3: “As a free software license, this License intrinsically disfavors technical attempts to restrict users’ freedom to copy, modify, and share copyrighted works. Each of its provisions shall be interpreted in light of this specific declaration of the licensor’s intent.”

See also, Opinion on Digital Restrictions Management, Free Software Foundation, <http://gplv3.fsf.org/drm-dd2.html> : “We believe these disclaimers by each licensor of any intention to use GPL'd software to stringently control access to other copyrighted works should practically prevent any private or public parties from invoking DMCA-like laws against users who escape technical restriction measures implemented by GPL'd software.”

The remainder of Section 3 of GPLv3 states the following additional waiver and disclaimer⁴¹:

When you convey a covered work, you waive any legal power to forbid circumvention of technological measures to the extent such circumvention is effected by exercising rights under this License with respect to the covered work, and you disclaim any intention to limit operation or modification of the work as a means of enforcing, against the work's users, your or third parties' legal rights to forbid circumvention of technological measures.

(c) **Compatibility**

While the GPL is the most widely-used Free Software license, there are many other types of Free Software licenses, not all of which are compatible with the various versions of the GPL. For a license to be compatible with the GPL, a user must be able to combine the programs, or portions thereof, and distribute the combined work under the GPL. If one cannot distribute the combined work under the GPL and still be in compliance with the other license, the two licenses are not compatible and the two programs cannot be distributed as a combined work.

By way of example, the Apache License, version 2.0,⁴² includes certain patent retaliation provisions and indemnity obligations that are not permitted by GPLv2. As a result, software licensed under Apache License, version 2.0, cannot be combined with software licensed under GPLv2. In drafting GPLv3, the FSF wished to increase the number of free software licenses with which the GPLv3 is compatible without sacrificing the Four Freedoms of users.

To achieve this goal, Section 7 of GPLv3 permits additional permissions and a limited number of additional restrictions, or non-permissive provisions, to supplement the terms of GPLv3.

⁴¹ See Second Discussion Draft Rationale, note 39, p. 11: "In particular, the EUCD appears to give implementers of technical restriction measures the power to waive the operation of anticircumvention law."

⁴² <http://www.apache.org/licenses/LICENSE-2.0>

(i) **Additional Permissions**

There is no limit to the types of permission that may be added by the copyright holder to supplement the terms of GPLv3; provided that such permissions in no way take away from the freedoms protected by GPLv3. Additional permissions may apply to the whole of the program or may apply only to parts of the program. Additional permissions may be written to require their removal in the event that the affected program is modified and re-distributed. In addition, subsequent users of the covered work may remove additional permissions from copies of covered works that they convey. Additional permissions may be added to GPLv3 by the licensor or they may be implemented under a separate license.⁴³

(ii) **Non-Permissive Additional Terms**

Section 7 of GPLv3 also allows one to supplement the terms of GPLv3 for material added to a covered work (provided you are the copyright holder of such added material or have the permission of the copyright holder) with terms to address the following:

- different disclaimers of warranty or limitations of liability;
- preservation of legal notices and/or author attribution;
- prohibiting the misrepresentation of the origin of the added material or requiring the marking of modifications;
- restrictions on the use of the names of licensors or authors for publicity purposes;
- refusing to grant rights under trademark law; and
- indemnification of licensors and authors for any contractual liabilities that are assumed by anyone who conveys the material (e.g. warranty obligations).

⁴³ The Lesser General Public License, version 3, is an example of an additional permission being implemented by a separate license.

Unlike additional permissions, which can be removed by subsequent downstream users, non-permissive requirements that govern material added to a covered work cannot be removed by downstream users.

When additional permissive and non-permissive terms are added to a covered work, a statement of the additional terms, or a notice indicating where to find the applicable terms, must be included in the relevant source files affected by such terms.

While the ability to add permissive and non-permissive terms will result in an increase in the number of licenses that are compatible with GPLv3, it will also add to the complexity involved in the management of free software licenses. It will no longer be sufficient for a user to know that the use, modification and distribution of a computer program is governed by GPLv3, the user will also have know whether there are supplemental terms which govern such program and which parts of the program are so governed.

Other Changes and Clarifications

(a) Termination

Under GPLv2, any copying, modifying, sublicensing or distribution of a GPLv2-covered program that is not in compliance with the terms of GPLv2 results in the automatic termination of the licenses granted thereunder.⁴⁴ As a result, even if the non-compliance is inadvertent and/or has been remedied, a non-compliant licensee must seek the permission of all copyright holders of the affected program to have the terminated license reinstated.

While GPLv3 retains the concept of automatic termination, it also includes a mechanism by which a terminated license can be reinstated without having to contact all copyright holders. Under Section 8 of GPLv3, if one is in violation of GPLv3 and ceases the violation of the license, the license will be “provisionally” reinstated unless the copyright holder takes explicit and final action to terminate the license. If, in the sixty (60) days since the violating actions have ceased, the copyright holder has not notified the licensee of the violation, the license is then permanently reinstated. If the copyright holder has notified the licensee of the

⁴⁴ Section 4, GPLv2.

violation within the sixty (60) day time period, and it is the first time that the licensee has received notice of violation GPLv3 (for any work), the licensee will still have the license permanently reinstated if the violation is cured prior to thirty (30) days after receipt of the notice. Finally, Section 8 of GPLv3 makes clear that a licensee that has had its license to a work terminated cannot simply obtain a new license by obtaining a new copy of the work.

(b) **Online Functionality**

Under GPLv2, licensees are free to modify a GPLv2-covered computer program and use the computer program to interact with other computers over a network (e.g., ASP model), without having to make the source code to the modified program available to others. As a result, GPLv2 is not compatible with other licenses, such as the Affero General Public License (“Affero GPL”), that require licensees who use licensed computer programs in this manner to make the source code available to those who interact with the licensed program. In drafting GPLv3, the FSF wanted to make GPLv3 compatible with the Affero GPL. In deciding how best to do so, FSF, and those who commented on this issue, debated over whether to include a similar condition in GPLv3, or whether to include conditions of this type as an additional non-permissive condition that one may add as a supplement to GPLv3.⁴⁵

In Discussion Draft 1 and Discussion Draft 2 of GPLv3, the FSF added Affero GPL-type conditions to the non-permissive type conditions that could be added to the GPLv3 for material that a person adds to a covered work. This addition was objected to by those who did not want GPLv3 compatibility with Affero GPL-type conditions because of potentially significant commercial consequences as well as from those on the opposite end of the spectrum who thought that the FSF did not go far enough and should have made such a condition part of GPLv3 itself.⁴⁶

In the face of objections from both sides of the issue, the FSF decided to remove the reference to Affero GPL-type conditions from Section 7 of GPLv3, and instead add as Section 13 to GPLv3 a provision which states that the GPLv3 is compatible with Affero GPL,

⁴⁵ See “Non-Permissive Additional Terms” in paragraph (c)(ii) above.

⁴⁶ See Third Discussion Draft Rationale, p.30.

Version 3 (without reference to similar conditions that may be found in other licenses). Section 13 reads as follows:

Notwithstanding any other provision of this License, you have permission to link or combine any covered work with a work licensed under version 3 of the GNU Affero General Public License into a single combined work, and to convey the resulting work. The terms of this License will continue to apply to the part which is the covered work, but the special requirements of the GNU Affero General Public License, section 13, concerning interaction through a network will apply to the combination as such.

It is noted that at the time of writing this paper, versions 3 of the Affero GPL had not yet been finalized. The draft version of such license, however, is based on GPLv3, but includes the following additional paragraph in section 13:

Notwithstanding any other provision of this License, if you modify the Program, your modified version must prominently offer all users interacting with it remotely through a computer network (if your version supports such interaction) an opportunity to receive the Corresponding Source of your version by providing access to the Corresponding Source from a network server at no charge, through some standard or customary means of facilitating copying of software. This Corresponding Source shall include the Corresponding Source for any work covered by version 3 of the GNU General Public License that is incorporated pursuant to the following paragraph.

(c) Use of Independent Contractors

Another area in which GPLv3 provides greater clarity than GPLv2 is with respect to the use of independent contractors and service providers. In some cases, a company (or other entity) will wish to engage an independent contractor to assist it in making modifications to GPL-covered code. Under such circumstances, the company typically regards the modifications to be the intellectual property of the company and does not want the independent contractor to have the right to use the modifications for any other purpose, or to be able to distribute them to others. However, under a strict reading of GPLv2, the provision of modifications by one entity to another is a distribution which, under the terms of GPLv2, must be made pursuant to the terms of GPLv2, and which cannot be modified by private contract. In another example, a company may make modifications to a GPLv2-covered program for its own internal use, but wish to engage an independent service provider to host such software on computers that it manages for

the benefit of the company. Again, the provision of the modified program to the service provider could be considered a distribution of the program which must be made pursuant to the conditions governing such distributions in GPLv2.

As it is not the intent of the FSF to prohibit such arrangements, GPLv3 expressly addresses such arrangement in Section 2 of GPLv3:

You may convey covered works to others for the sole purpose of having them make modifications exclusively for you, or provide you with facilities for running those works, provided that you comply with the terms of this License in conveying all material for which you do not control copyright. Those thus making or running the covered works for you must do so exclusively on your behalf, under your direction and control, on terms that prohibit them from making any copies of your copyrighted material outside their relationship with you.

Conveying under any other circumstances is permitted solely under the conditions stated below.

(d) Mergers and Acquisitions

During the consultation process for GPLv3, concerns were raised regarding the effect of the GPL on mergers and acquisitions which involve GPL-covered programs. While these concerns were not fully articulated in the Second Discussion Draft Rationale,⁴⁷ one can identify circumstances under which GPLv2 could have an adverse effect on the acquisition of a business. For example, if a company makes modifications to GPL-covered code for its own internal use, it is not required to make the source code to such modifications available to any other person. However, if the company transfers its assets, or the assets of a division which include the modified program, to another company, under GPLv2 the sale is a distribution of the modified program for which the distribution-related conditions in the GPL must be observed.

In the Second Draft Discussion Rationale, the FSF states that while it does not intend to create obstacles to mergers and acquisition transactions, it does not think that a company that uses GPL-covered code should be able to transfer the modified program but in

⁴⁷ See page 23 of Second Draft Discussion Rationale: “There appear to be particular concern about whether and when such transactions activate the distribution-related requirements of the GPL for software that has previously been used and modified internally.”

some fashion “keep control of a trade secret embodied in its improvements to that software”.⁴⁸ As result, Section 10 of GPLv3 states, in part, the following:

Each time you convey a covered work, the recipient automatically receives a license from the original licensors, to run, modify and propagate that work, subject to this License. You are not responsible for enforcing compliance by third parties with this License.

An "entity transaction" is a transaction transferring control of an organization, or substantially all assets of one, or subdividing an organization, or merging organizations. If propagation of a covered work results from an entity transaction, each party to that transaction who receives a copy of the work also receives whatever licenses to the work the party's predecessor in interest had or could give under the previous paragraph, plus a right to possession of the Corresponding Source of the work from the predecessor in interest, if the predecessor has it or can get it with reasonable efforts.

While Section 10 makes clear that one can assign the licenses received from “upstream” licensors of components of the transferred program, it is less clear what rights the assignee has with respect to the Corresponding Source of the modifications that the assignor made to such program. As the second paragraph of Section 10 does not use the term “convey” one could take the view that the propagation of a covered work as a result of an “entity transaction” does not activate the convey-related obligations under GPLv3, but that the transferor must provide the a “right to possession” of the Corresponding Source. Unfortunately, the phrase “right to possession” is not defined, and it is not clear what the recipient of such right is able to do with the Corresponding Source for the modifications made to the program by the transferor.

Compatibility with GPLv2

As stated above, not all Free Software licenses are compatible with the GPL. This is true even with GPLv2 and GPLv3, as these two versions of the GPL are not compatible with one another. Fortunately, many programs that are licensed under GPLv2 state that that the program may be used under the terms of GPLv2 “or any later version”. In such cases, the GPLv2-covered program can be combined with GPLv3-covered code and the combined work

⁴⁸ Ibid. The Second Draft Discussion Rationale continues, “In such a case, the business might attempt to keep the source code to itself and give only the binary to the buyer. This, we believe, should not be allowed.”

can be distributed under GPLv3. However, programs that are licensed under GPLv2 only may not be distributed as part of a combined work under GPLv3 unless the copyright holders of such program otherwise agree.⁴⁹

The “Linking” Issue and the Reach of the GPL

A computer program does not operate in isolation, and most computer programs are designed to utilize other code, such as libraries. As a result, a computer program is “linked” to this other code so that they can operate together. In discussions regarding the reach of the GPL, it has often been debated whether a covered work includes code that is linked to GPL-covered code.

For GPLv2-covered programs, the difficulty in measuring the reach of GPL-v2 to programs that are linked with GPLv2 programs is a result of the absence of any operative language regarding linking and by confusing references to “derivative works” and “collective works”.⁵⁰ In GPLv3, the terms “derivative works” and “collective works” have been removed and a specific reference to linked code has been included. However, it is not certain that the revisions in GPLv3 have resolved the issue.

Section 0 of GPLv3 defines a “covered work” as “either the unmodified Program or a work based on the Program”. The meaning of “based on” is found in the definition of “modify”, also found in Section 0 of GPLv3:

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.

Based on the definitions of “covered work” and “modify”, it would appear that the conditions of distribution under GPLv3 only apply to unmodified Programs and modified Programs, and not to

⁴⁹ For example, the Linux kernel is licensed under GPLv2.

⁵⁰ For a useful explanation of the difficulties with GPLv2 in this regard, see [Open Source Licensing: Software Freedom and Intellectual Property Law](#), Lawrence Rosen, Copyright © 2005, pages 113-121. The analysis of “linking” and the GPL in this section of the paper follows, in great part, on Mr. Rosen’s analysis in the aforementioned publication.

programs with which they are linked, as one does not require copyright permission to link two separate works.

However, while the definitions of “covered work” and “modify” do not mention linking, the definition of “Corresponding Source” (i.e. the code that must be made available when covered works are distributed) in Section 1 of GPLv3 does:

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, including scripts to control those activities. However it does not include the work’s System Libraries, or general-purpose tools or generally available free programs which are used unmodified in performing those activities but which are not part of the work. For example, Corresponding Source includes interface definition files associated with source files for the work, and the source code for shared libraries and dynamically linked subprograms that the work is specifically designed to require, such as by intimate data communication or control flow between those subprograms and other parts of the work. [emphasis added]

The definition also states that the “Corresponding Source for a work in source code form is that same work”. As a result, even though a library or a subprogram may be a separate copyrightable work, and therefore not initially fall within the definition of “covered work”, if the library or subprogram is one for which the work is specifically designed to require, it “must be provided together with the source code to the covered work” and is to be considered part of the same work.

While the FSF has attempted to clarify the issue regarding the reach of the GPL in GPLv3, not all ambiguities have been eliminated. For instance, as the example used in the definition of “Corresponding Source” illustrates, the meaning and application of phrases such as “that the work is specifically designed to require” leaves room for interpretation. It is also worth considering whether defenses such as copyright misuse would be available to a licensee that does not comply with the requirement to make the source code to its independent programs available.⁵¹

The reach of GPLv3 is further blurred by Section 5 of GPLv3. Section 5 of GPLv3 states in part:

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

⁵¹ An exploration or analysis of this idea is outside the scope of this paper.

the compilation and its resulting copyright are not used to limit the access or legal rights of the compilation's users beyond what the individual works permit. Inclusion of a covered work in an aggregate does not cause this License to apply to the other parts of the aggregate.

In other words, Section 5 of GPLv3 implies that any distribution of a compilation of “covered work” with “separate and independent works” will be subject to the terms of GPLv3 unless the other works are “not by their nature extensions of the covered work” and are not combined with the covered work “such as to form a larger program”. Presumably a computer program or software code that has been independently authored would qualify as a “separate and independent work”. However, it is not clear when such work would constitute an extension of a covered work or be considered part of a larger program.

Despite the remaining ambiguities, it is clear that those who have used creative methods to avoid “contaminating” proprietary code with GPL-covered code (e.g., separately distributing libraries and add-ons) will have to re-evaluate their practices when using GPLv3-covered programs. Advising clients on which practices will achieve their goals will remain a difficult task for lawyers who must interpret GPLv3.

Will GPLv3 Be A Success?

The consultation and drafting process of GPLv3 should be admired and should serve as a model for the drafting of future Free Software and Open Source licenses (if additional licenses are necessary). In seeking to revamp the GPL, the FSF addressed difficult issues, and the number of significant changes that were made to each draft of GPLv3 show that, while the FSF did not accept everyone’s comments, the FSF listened. As this paper explains, some issues have been dealt with in a more satisfactory way than others. Important clarifications have been made, but some questions remain. However, the success of GPLv3 will not be measured by an academic analysis of its provisions; it will be measured by the degree to which GPLv3 is adopted by Free Software and Open Source projects and those who elect to use GPLv3-covered programs in their business.

In the case of major Free Software and Open Source projects, SugarCRM and Samba have indicated their intention to use GPLv3 for their projects, while the Linux kernel,

which is licensed under GPLv2, has indicated that it will not.⁵² For lesser known projects, there exists data which give varied accounts of the adoption rate of GPLv3.⁵³ With respect to companies that include Free Software and Open Source software in the products that they distribute, it is too soon to tell whether those that have previously distributed GPLv2-covered software will similarly embrace GPLv3-covered software. It is clear, however, that before doing so they should carefully consider the impact that the new provisions of GPLv3, such as the patent-related and DRM provisions, could have on their business.

⁵² “GPLv3 adoption rates: Do they matter?”, InfoWorld, Brad Shimin, October 2, 2007, http://www.infoworld.com/archives/emailPrint.jsp?R=printThis&A=http://weblog.infoworld.com/openresource/archives/2007/10/gplv3_adoption.html. Though the Linux kernel may move to GPLv3 if Sun moves Open Solaris to GPLv3.

⁵³ *Ibid.* The article states that a recent Evans Data survey indicates that an estimated 66 percent of open source projects will not adopt GPLv3 in the next year while 43 percent plan to fully stay away from GPLv3. Palamida, however, which indicates that the adoption rates are higher.

EXHIBIT A

GNU GENERAL PUBLIC LICENSE Version 3, 29 June 2007

Copyright (C) 2007 Free Software Foundation, Inc. <<http://fsf.org/>>

Everyone is permitted to copy and distribute verbatim copies of this license document, but changing it is not allowed.

Preamble

The GNU General Public License is a free, copyleft license for software and other kinds of works.

The licenses for most software and other practical works are designed to take away your freedom to share and change the works. By contrast, the GNU General Public License is intended to guarantee your freedom to share and change all versions of a program--to make sure it remains free software for all its users. We, the Free Software Foundation, use the GNU General Public License for most of our software; it applies also to any other work released this way by its authors. You can apply it to your programs, too.

When we speak of free software, we are referring to freedom, not price. Our General Public Licenses are designed to make sure that you have the freedom to distribute copies of free software (and charge for them if you wish), that you receive source code or can get it if you want it, that you can change the software or use pieces of it in new free programs, and that you know you can do these things.

To protect your rights, we need to prevent others from denying you these rights or asking you to surrender the rights. Therefore, you have certain responsibilities if you distribute copies of the software, or if you modify it: responsibilities to respect the freedom of others.

For example, if you distribute copies of such a program, whether gratis or for a fee, you must pass on to the recipients the same freedoms that you received. You must make sure that they, too, receive or can get the source code. And you must show them these terms so they know their rights.

Developers that use the GNU GPL protect your rights with two steps: (1) assert copyright on the software, and (2) offer you this License giving you legal permission to copy, distribute and/or modify it.

For the developers' and authors' protection, the GPL clearly explains that there is no warranty for this free software. For both users' and authors' sake, the GPL requires that modified versions be marked as changed, so that their problems will not be attributed erroneously to authors of previous versions.

Some devices are designed to deny users access to install or run modified versions of the software inside them, although the manufacturer can do so. This is fundamentally incompatible with the aim of protecting users' freedom to change the software. The systematic pattern of such abuse occurs in the area of products for individuals to use, which is precisely where it is most unacceptable. Therefore, we have designed this version of the GPL to prohibit the practice for those products. If such problems arise substantially in other domains, we stand ready to extend this provision to those domains in future versions of the GPL, as needed to protect the freedom of users.

Finally, every program is threatened constantly by software patents. States should not allow patents to restrict development and use of software on general-purpose computers, but in those that do, we wish to avoid the special danger that patents applied to a free program could make it effectively proprietary. To prevent this, the GPL assures that patents cannot be used to render the program non-free.

The precise terms and conditions for copying, distribution and modification follow.

TERMS AND CONDITIONS

0. Definitions.

"This License" refers to version 3 of the GNU General Public License.

"Copyright" also means copyright-like laws that apply to other kinds of works, such as semiconductor masks.

"The Program" refers to any copyrightable work licensed under this License. Each licensee is addressed as "you". "Licensees" and "recipients" may be individuals or organizations.

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.

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

To "propagate" a work means to do anything with it that, without permission, would make you directly or secondarily liable for infringement under applicable copyright law, except executing it on a computer or modifying a private copy. Propagation includes copying, distribution (with or without modification), making available to the public, and in some countries other activities as well.

To "convey" a work means any kind of propagation that enables other parties to make or receive copies. Mere interaction with a user through a computer network, with no transfer of a copy, is not conveying.

An interactive user interface displays "Appropriate Legal Notices" to the extent that it includes a convenient and prominently visible feature that (1) displays an appropriate copyright notice, and (2) tells the user that there is no warranty for the work (except to the extent that warranties are provided), that licensees may convey the work under this License, and how to view a copy of this License. If the interface presents a list of user commands or options, such as a menu, a prominent item in the list meets this criterion.

1. Source Code.

The "source code" for a work means the preferred form of the work for making modifications to it. "Object code" means any non-source form of a work.

A "Standard Interface" means an interface that either is an official standard defined by a recognized standards body, or, in the case of interfaces specified for a particular programming language, one that is widely used among developers working in that language.

The "System Libraries" of an executable work include anything, other than the work as a whole, that (a) is included in the normal form of packaging a Major Component, but which is not part of that Major Component, and (b) serves only to enable use of the work with that Major Component, or to implement a Standard Interface for which an implementation is available to the public in source code form. A "Major Component", in this context, means a major essential component (kernel, window system, and so on) of the specific operating system (if any) on which the executable work runs, or a compiler used to produce the work, or an object code interpreter used to run it.

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, including scripts to control those activities. However, it does not include the work's System Libraries, or general-purpose tools or generally available free programs which are used unmodified in performing those activities but which are not part of the work. For example, Corresponding Source includes interface definition files associated with source files for the work, and the source code for shared libraries and dynamically linked subprograms that the work is specifically designed to require, such as by intimate data communication or control flow between those subprograms and other parts of the work.

The Corresponding Source need not include anything that users can regenerate automatically from other parts of the Corresponding Source.

The Corresponding Source for a work in source code form is that same work.

2. Basic Permissions.

All rights granted under this License are granted for the term of copyright on the Program, and are irrevocable provided the stated conditions are met. This License explicitly affirms your unlimited permission to run the unmodified Program. The output from running a covered work is covered by this License only if the output, given its content, constitutes a covered work. This License acknowledges your rights of fair use or other equivalent, as provided by copyright law.

You may make, run and propagate covered works that you do not convey, without conditions so long as your license otherwise remains in force. You may convey covered works to others for the sole purpose of having them make modifications exclusively for you, or provide you with facilities for running those works, provided that you comply with the terms of this License in conveying all material for which you do not control copyright. Those thus making or running the covered works for you must do so exclusively on your behalf, under your direction and control, on terms that prohibit them from making any copies of your copyrighted material outside their relationship with you.

Conveying under any other circumstances is permitted solely under the conditions stated below. Sublicensing is not allowed; section 10 makes it unnecessary.

3. Protecting Users' Legal Rights From Anti-Circumvention Law.

No covered work shall be deemed part of an effective technological measure under any applicable law fulfilling obligations under article 11 of the WIPO copyright treaty adopted on 20 December 1996, or similar laws prohibiting or restricting circumvention of such measures.

When you convey a covered work, you waive any legal power to forbid circumvention of technological measures to the extent such circumvention is effected by exercising rights under this License with respect to the covered work, and you disclaim any intention to limit operation or modification of the work as a means of enforcing, against the work's users, your or third parties' legal rights to forbid circumvention of technological measures.

4. Conveying Verbatim Copies.

You may convey verbatim copies of the Program's source code as you receive it, in any medium, provided that you conspicuously and appropriately publish on each copy an appropriate copyright notice; keep intact all notices stating that this License and any non-permissive terms added in accord with section 7 apply to the code; keep intact all notices of the absence of any warranty; and give all recipients a copy of this License along with the Program.

You may charge any price or no price for each copy that you convey, and you may offer support or warranty protection for a fee.

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:

- a) The work must carry prominent notices stating that you modified it, and giving a relevant date.
- b) The work must carry prominent notices stating that it is released under this License and any conditions added under section 7. This requirement modifies the requirement in section 4 to "keep intact all notices".
- c) You must license the entire work, as a whole, under this License to anyone who comes into possession of a copy. This License will therefore apply, along with any applicable section 7 additional terms, to the whole of the work, and all its parts, regardless of how they are packaged. This License gives no permission to license the work in any other way, but it does not invalidate such permission if you have separately received it.
- d) If the work has interactive user interfaces, each must display Appropriate Legal Notices; however, if the Program has interactive interfaces that do not display Appropriate Legal Notices, your work need not make them do so.

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 the compilation and its resulting copyright are not used to limit the access or legal rights of the compilation's users beyond what the individual works permit. Inclusion of a covered work in an aggregate does not cause this License to apply to the other parts of the aggregate.

6. Conveying Non-Source Forms.

You may convey a covered work in object code form under the terms of sections 4 and 5, provided that you also convey the machine-readable Corresponding Source under the terms of this License, in one of these ways:

- a) Convey the object code in, or embodied in, a physical product (including a physical distribution medium), accompanied by the Corresponding Source fixed on a durable physical medium customarily used for software interchange.
- b) Convey the object code in, or embodied in, a physical product (including a physical distribution medium), accompanied by a written offer, valid for at least three years and valid for as long as you offer spare parts or customer support for that product model, to give anyone who possesses the object code either (1) a copy of the Corresponding Source for all the software in the product that is covered by this License, on a durable physical medium customarily used for software interchange, for a price no more than your reasonable cost of physically performing this

conveying of source, or (2) access to copy the Corresponding Source from a network server at no charge.

c) Convey individual copies of the object code with a copy of the written offer to provide the Corresponding Source. This alternative is allowed only occasionally and noncommercially, and only if you received the object code with such an offer, in accord with subsection 6b.

d) Convey the object code by offering access from a designated place (gratis or for a charge), and offer equivalent access to the Corresponding Source in the same way through the same place at no further charge. You need not require recipients to copy the Corresponding Source along with the object code. If the place to copy the object code is a network server, the Corresponding Source may be on a different server (operated by you or a third party) that supports equivalent copying facilities, provided you maintain clear directions next to the object code saying where to find the Corresponding Source. Regardless of what server hosts the Corresponding Source, you remain obligated to ensure that it is available for as long as needed to satisfy these requirements.

e) Convey the object code using peer-to-peer transmission, provided you inform other peers where the object code and Corresponding Source of the work are being offered to the general public at no charge under subsection 6d.

A separable portion of the object code, whose source code is excluded from the Corresponding Source as a System Library, need not be included in conveying the object code work.

A "User Product" is either (1) a "consumer product", which means any tangible personal property which is normally used for personal, family, or household purposes, or (2) anything designed or sold for incorporation into a dwelling. In determining whether a product is a consumer product, doubtful cases shall be resolved in favor of coverage. For a particular product received by a particular user, "normally used" refers to a typical or common use of that class of product, regardless of the status of the particular user or of the way in which the particular user actually uses, or expects or is expected to use, the product. A product is a consumer product regardless of whether the product has substantial commercial, industrial or non-consumer uses, unless such uses represent the only significant mode of use of the product.

"Installation Information" for a User Product means any methods, procedures, authorization keys, or other information required to install and execute modified versions of a covered work in that User Product from a modified version of its Corresponding Source. The information must suffice to ensure that the continued functioning of the modified object code is in no case prevented or interfered with solely because modification has been made.

If you convey an object code work under this section in, or with, or specifically for use in, a User Product, and the conveying occurs as part of a transaction in which the right of possession and use of the User Product is transferred to the recipient in perpetuity or for a fixed term (regardless of how the transaction is characterized), the Corresponding Source conveyed under this section must be accompanied by the Installation Information. But this requirement does not apply if neither you nor any third party retains the ability to install modified object code on the User Product (for example, the work has been installed in ROM).

The requirement to provide Installation Information does not include a requirement to continue to provide support service, warranty, or updates for a work that has been modified or installed by the recipient, or for the User Product in which it has been modified or installed. Access to a network may be denied when the modification itself materially and adversely affects the operation of the network or violates the rules and protocols for communication across the network.

Corresponding Source conveyed, and Installation Information provided, in accord with this section must be in a format that is publicly documented (and with an implementation available to the public in source code form), and must require no special password or key for unpacking, reading or copying.

7. Additional Terms.

"Additional permissions" are terms that supplement the terms of this License by making exceptions from one or more of its conditions. Additional permissions that are applicable to the entire Program shall be treated as though they were included in this License, to the extent that they are valid under applicable law. If additional permissions apply only to part of the Program, that part may be used separately under those permissions, but the entire Program remains governed by this License without regard to the additional permissions.

When you convey a copy of a covered work, you may at your option remove any additional permissions from that copy, or from any part of it. (Additional permissions may be written to require their own removal in certain cases when you modify the work.) You may place additional permissions on material, added by you to a covered work, for which you have or can give appropriate copyright permission.

Notwithstanding any other provision of this License, for material you add to a covered work, you may (if authorized by the copyright holders of that material) supplement the terms of this License with terms:

- a) Disclaiming warranty or limiting liability differently from the terms of sections 15 and 16 of this License; or
- b) Requiring preservation of specified reasonable legal notices or author attributions in that material or in the Appropriate Legal Notices displayed by works containing it; or
- c) Prohibiting misrepresentation of the origin of that material, or requiring that modified versions of such material be marked in reasonable ways as different from the original version; or
- d) Limiting the use for publicity purposes of names of licensors or authors of the material; or
- e) Declining to grant rights under trademark law for use of some trade names, trademarks, or service marks; or

f) Requiring indemnification of licensors and authors of that material by anyone who conveys the material (or modified versions of it) with contractual assumptions of liability to the recipient, for any liability that these contractual assumptions directly impose on those licensors and authors.

All other non-permissive additional terms are considered "further restrictions" within the meaning of section 10. If the Program as you received it, or any part of it, contains a notice stating that it is governed by this License along with a term that is a further restriction, you may remove that term. If a license document contains a further restriction but permits relicensing or conveying under this License, you may add to a covered work material governed by the terms of that license document, provided that the further restriction does not survive such relicensing or conveying.

If you add terms to a covered work in accord with this section, you must place, in the relevant source files, a statement of the additional terms that apply to those files, or a notice indicating where to find the applicable terms.

Additional terms, permissive or non-permissive, may be stated in the form of a separately written license, or stated as exceptions; the above requirements apply either way.

8. Termination.

You may not propagate or modify a covered work except as expressly provided under this License. Any attempt otherwise to propagate or modify it is void, and will automatically terminate your rights under this License (including any patent licenses granted under the third paragraph of section 11).

However, if you cease all violation of this License, then your license from a particular copyright holder is reinstated (a) provisionally, unless and until the copyright holder explicitly and finally terminates your license, and (b) permanently, if the copyright holder fails to notify you of the violation by some reasonable means prior to 60 days after the cessation.

Moreover, your license from a particular copyright holder is reinstated permanently if the copyright holder notifies you of the violation by some reasonable means, this is the first time you have received notice of violation of this License (for any work) from that copyright holder, and you cure the violation prior to 30 days after your receipt of the notice.

Termination of your rights under this section does not terminate the licenses of parties who have received copies or rights from you under this License. If your rights have been terminated and not permanently reinstated, you do not qualify to receive new licenses for the same material under section 10.

9. Acceptance Not Required for Having Copies.

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 other than this License grants you permission to propagate or modify any covered work. These actions infringe copyright if you do not accept this License. Therefore, by modifying or propagating a covered work, you indicate your acceptance of this License to do so.

10. Automatic Licensing of Downstream Recipients.

Each time you convey a covered work, the recipient automatically receives a license from the original licensors, to run, modify and propagate that work, subject to this License. You are not responsible for enforcing compliance by third parties with this License.

An "entity transaction" is a transaction transferring control of an organization, or substantially all assets of one, or subdividing an organization, or merging organizations. If propagation of a covered work results from an entity transaction, each party to that transaction who receives a copy of the work also receives whatever licenses to the work the party's predecessor in interest had or could give under the previous paragraph, plus a right to possession of the Corresponding Source of the work from the predecessor in interest, if the predecessor has it or can get it with reasonable efforts.

You may not impose any further restrictions on the exercise of the rights granted or affirmed under this License. For example, you may not impose a license fee, royalty, or other charge for exercise of rights granted under this License, and you may not initiate litigation (including a cross-claim or counterclaim in a lawsuit) alleging that any patent claim is infringed by making, using, selling, offering for sale, or importing the Program or any portion of it.

11. Patents.

A "contributor" is a copyright holder who authorizes use under this License of the Program or a work on which the Program is based. The work thus licensed is called the contributor's "contributor version".

A contributor's "essential patent claims" are all patent claims owned or controlled by the contributor, whether already acquired or hereafter acquired, that would be infringed by some manner, permitted by this License, of making, using, or selling its contributor version, but do not include claims that would be infringed only as a consequence of further modification of the contributor version. For purposes of this definition, "control" includes the right to grant patent sublicenses in a manner consistent with the requirements of this License.

Each contributor grants you a non-exclusive, worldwide, royalty-free patent license under the contributor's essential patent claims, to make, use, sell, offer for sale, import and otherwise run, modify and propagate the contents of its contributor version.

In the following three paragraphs, a "patent license" is any express agreement or commitment, however denominated, not to enforce a patent (such as an express permission to practice a patent or covenant not to sue for patent infringement). To "grant" such a patent license to a party means to make such an agreement or commitment not to enforce a patent against the party.

If you convey a covered work, knowingly relying on a patent license, and the Corresponding Source of the work is not available for anyone to copy, free of charge and under the terms of this License, through a publicly available network server or other readily accessible means, then you must either (1) cause the Corresponding Source to be so available, or (2) arrange to deprive yourself of the benefit of the patent license for this particular work, or (3) arrange, in a manner consistent with the requirements of this License, to extend the patent license to downstream recipients. "Knowingly relying" means you have actual knowledge that, but for the patent license, your conveying the covered work in a country, or your recipient's use of the covered work in a country, would infringe one or more identifiable patents in that country that you have reason to believe are valid.

If, pursuant to or in connection with a single transaction or arrangement, you convey, or propagate by procuring conveyance of, a covered work, and grant a patent license to some of the parties receiving the covered work authorizing them to use, propagate, modify or convey a specific copy of the covered work, then the patent license you grant is automatically extended to all recipients of the covered work and works based on it.

A patent license is "discriminatory" if it does not include within the scope of its coverage, prohibits the exercise of, or is conditioned on the non-exercise of one or more of the rights that are specifically granted under this License. You may not convey a covered work if you are a party to an arrangement with a third party that is in the business of distributing software, under which you make payment to the third party based on the extent of your activity of conveying the work, and under which the third party grants, to any of the parties who would receive the covered work from you, a discriminatory patent license (a) in connection with copies of the covered work conveyed by you (or copies made from those copies), or (b) primarily for and in connection with specific products or compilations that contain the covered work, unless you entered into that arrangement, or that patent license was granted, prior to 28 March 2007.

Nothing in this License shall be construed as excluding or limiting any implied license or other defenses to infringement that may otherwise be available to you under applicable patent law.

12. No Surrender of Others' Freedom.

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. If you cannot convey a covered work so as to satisfy simultaneously your obligations under this License and any other pertinent obligations, then as a consequence you may not convey it at all. For example, if you agree to terms that obligate you to collect a royalty for further conveying from those to whom you convey the Program, the only way you could satisfy both those terms and this License would be to refrain entirely from conveying the Program.

13. Use with the GNU Affero General Public License.

Notwithstanding any other provision of this License, you have permission to link or combine any covered work with a work licensed under version 3 of the GNU Affero General Public License into a single combined work, and to convey the resulting work. The terms of this License will continue to apply to the part which is the covered work, but the special requirements of the GNU Affero General Public License, section 13, concerning interaction through a network will apply to the combination as such.

14. Revised Versions of this License.

The Free Software Foundation may publish revised and/or new versions of the GNU General Public License from time to time. Such new versions will be similar in spirit to the present version, but may differ in detail to address new problems or concerns.

Each version is given a distinguishing version number. If the Program specifies that a certain numbered version of the GNU General Public License "or any later version" applies to it, you have the option of following the terms and conditions either of that numbered version or of any later version published by the Free Software Foundation. If the Program does not specify a version number of the GNU General Public License, you may choose any version ever published by the Free Software Foundation.

If the Program specifies that a proxy can decide which future versions of the GNU General Public License can be used, that proxy's public statement of acceptance of a version permanently authorizes you to choose that version for the Program.

Later license versions may give you additional or different permissions. However, no additional obligations are imposed on any author or copyright holder as a result of your choosing to follow a later version.

15. Disclaimer of Warranty.

THERE IS NO WARRANTY FOR THE PROGRAM, TO THE EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT WHEN OTHERWISE STATED IN WRITING THE COPYRIGHT HOLDERS AND/OR OTHER PARTIES PROVIDE THE PROGRAM "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE PROGRAM IS WITH YOU. SHOULD THE PROGRAM PROVE DEFECTIVE, YOU ASSUME THE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

16. Limitation of Liability.

IN NO EVENT UNLESS REQUIRED BY APPLICABLE LAW OR AGREED TO IN WRITING WILL ANY COPYRIGHT HOLDER, OR ANY OTHER PARTY WHO MODIFIES AND/OR CONVEYS THE PROGRAM AS PERMITTED ABOVE, BE LIABLE TO YOU FOR DAMAGES, INCLUDING ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PROGRAM (INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY YOU OR THIRD PARTIES OR A FAILURE OF THE PROGRAM TO OPERATE WITH ANY OTHER PROGRAMS), EVEN IF SUCH HOLDER OR OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

17. Interpretation of Sections 15 and 16.

If the disclaimer of warranty and limitation of liability provided above cannot be given local legal effect according to their terms, reviewing courts shall apply local law that most closely approximates an absolute waiver of all civil liability in connection with the Program, unless a warranty or assumption of liability accompanies a copy of the Program in return for a fee.

END OF TERMS AND CONDITIONS

How to Apply These Terms to Your New Programs:

If you develop a new program, and you want it to be of the greatest possible use to the public, the best way to achieve this is to make it free software which everyone can redistribute and change under these terms.

To do so, attach the following notices to the program. It is safest to attach them to the start of each source file to most effectively state the exclusion of warranty; and each file should have at least the "copyright" line and a pointer to where the full notice is found.

<one line to give the program's name and a brief idea of what it does.>

Copyright (C) <year> <name of author>

This program is free software: you can redistribute it and/or modify it under the terms of the GNU General Public License as published by the Free Software Foundation, either version 3 of the License, or (at your option) any later version.

This program is distributed in the hope that it will be useful, but WITHOUT ANY WARRANTY; without even the implied warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE. See the GNU General Public License for more details.

You should have received a copy of the GNU General Public License along with this program. If not, see <<http://www.gnu.org/licenses/>>.

Also add information on how to contact you by electronic and paper mail.

If the program does terminal interaction, make it output a short notice like this when it starts in an interactive mode:

```
<program> Copyright (C) <year> <name of author>  
This program comes with ABSOLUTELY NO WARRANTY; for details type `show w'.  
This is free software, and you are welcome to redistribute it  
under certain conditions; type `show c' for details.
```

The hypothetical commands `show w' and `show c' should show the appropriate parts of the General Public License. Of course, your program's commands might be different; for a GUI interface, you would use an "about box".

You should also get your employer (if you work as a programmer) or school, if any, to sign a "copyright disclaimer" for the program, if necessary. For more information on this, and how to apply and follow the GNU GPL, see <http://www.gnu.org/licenses/>.

The GNU General Public License does not permit incorporating your program into proprietary programs. If your program is a subroutine library, you may consider it more useful to permit linking proprietary applications with the library. If this is what you want to do, use the GNU Lesser General Public License instead of this License. But first, please read <http://www.gnu.org/philosophy/why-not-lgpl.html>.