

RE: BSD License "Innocence" Clause Proposal

Source: <http://unix.derkeiler.com/Mailing-Lists/FreeBSD/questions/2006-03/msg02510.html>

- *From:* "Ted Mittelstaedt" <tedm@xxxxxxxxxxxxxxxxxxx>
 - *Date:* Sun, 26 Mar 2006 01:06:25 -0800
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-----Original Message-----

From: Danny Pansters [<mailto:danny@xxxxxxxxxx>]
Sent: Wednesday, March 22, 2006 3:03 PM
To: Ted Mittelstaedt
Cc: frebsd-questions@xxxxxxxxxx
Subject: Re: BSD License "Innocence" Clause Proposal

Sorry, forgot this part..

On Wednesday 22 March 2006 17:57, you wrote:

Nope. The real BSD license gives copyrights to the University of California, Berkeley. Mainly for historical reasons because BSD originated from there, but there is a legal reason also. You see, if I Ted Mittelstaedt release software copyright Ted Mittelstaedt, even if I give everyone rights to use it, I still retain copyright and later on I can change the terms of that copyright. That is what the courts have said I can do. As a result of this, people, when they use my work commercially they will need to get me to sign a piece

of paper.

If I'm not reachable, that's kind of hard. By giving the copyright

If you use the copyright statement and then quote the (extra) provisions you have for distribution, as in

Redistribution and use in source and binary forms, with or without modification, are permitted provided that the following conditions are met:

[acceptable conditions like attribution]

or

Redistribution and use in source and binary forms, with or without modification, are permitted.

—

then they don't need you to sign anything, well, not for that code with those clauses. You are granting redistribution rights which are not granted by copyright itself, that's why there's a distribution license. I don't see the problem really.

The problem is that in reality 2 versions of the code exist, both with your copyright. One is the version that has the redistribution right grant, the other is the version without. In many cases of course the "one without" is merely a legal fiction. It is actually a lot more common to see this in GPL code, for example MySQL is this way.

What happens 10 years from now when my company has used your code in my product, and you get hit by a bus and your heirs come out of the woodwork claiming I am infringing on your work and I owe them money. What if the software you wrote isn't available with the unrestricted redistribution license on it anymore on any public archive and I cannot cough up an expert witness to testify in a court that you did in fact once release the code as unrestricted? Then it's my word against your heirs. And in the US courts always side with the copyright holder.

Before scoffing consider the case of these software packages:

MI/X X-server for Windows
acitslpr LPR daemon for Win98
winftp FTP program for Windows – with source
WS FTP LE edition FTP program for Windows
dimension 4 – ntp software for windows.
gated source –bgp routing daemon
Ingres – database software

Every one of them came out originally as free to use software. winftp in particular came out as free software plus source included, under a BSD-like license.

Every one subsequently was taken commercial. Some are still free for home use but not for commercial use, and their authors made extensive and strenuous efforts to find every archive site

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on the Internet that had the original free-licensed copies and threaten the maintainers to remove the software. gated was free while at Cornell, when Merit took it over they made it free for non-commercial use but not free for commercial use, nowadays it's only commercial.

Now, all of these packages have (fortunately) now been superseded. But the point is that unless your code is immediately incorporated in a large project with some history – like FreeBSD – it can get lost.

Think of all the ports in FreeBSD, the smaller ones come and go. For example have you ever tried downloading the original free bonnie source? People still cite bonnie as a disk tester – but the bonnie program you find today on a google search isn't the same bonnie.

to the University, it assures any future entity that there will never be any question of copyright rights to use the work since the UCB obviously isn't difficult to find, and is not likely to dry up and disappear.

s/University/FSF and s/BSD/GPL and you have a heated debate :)

This is why FreeBSD is copyrighted The FreeBSD Project and not the individual developers copyrights.

That's certainly not the case for the code used in FreeBSD, only for the FreeBSD trademark I think. Look at a random file in src.

No, it really is. Look at COPYRIGHT in /.

Ted

freebsd-questions@xxxxxxxxxxx mailing list

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