



# Courtship of Open Source and Standards

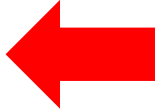
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# Is this an Open Source Software license?

SPDX-License-Identifier: BSD-3-Clause.  
The above license addresses copyright obligations. Please refer to the \*\*\* Operating Procedures for information about patent licensing obligations under the \*\*\* Intellectual Property Rights Policy.



This starts as a typical 3-clause BSD license.

But then it adds a patent disclaimer, and a reference to FRAND licensing terms.

# Royalty-Free Open Source Software (OSS)?

- No one can guarantee that OSS is absolutely royalty-free
- Necessary intellectual property (including essential patents) might be owned by non-participants or non-contributors
- But OSS developers typically expect that a Contributor to an OSS project will not seek to charge users a royalty for the very software it contributes

Purely royalty-free open source software may be a myth, but at a minimum, we don't expect Contributors to attempt to charge royalties for what they contribute.

# OSI\* principles are the foundation of OSS

“Open Source Software” should mean something.



Open Source Initiative

The OSI has established the conventional, most broadly recognized definition of Open Source Software.

Importantly, an OSI-approved license is the only license required.  
No additional or subsequent licenses are required for distribution or use

\* Open Source Initiative. A 501(c)3 organization which establishes the definition of open source (OSD) and approves open source licenses which support the OSD.

# ONF's Licensing Model

- Apache2.0 license governs development of software implementations
- IPR Policy governs development of specifications

ONF doesn't need to worry about FRAND licensing because its specifications are subject to royalty-free licensing commitments anyway.

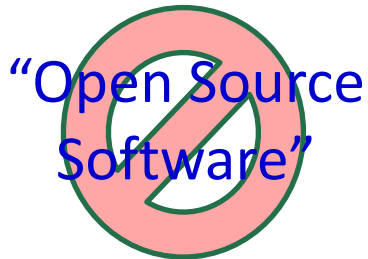
[https://www.opennetworking.org/wp-content/uploads/2019/02/ONF\\_Licensing\\_and\\_IPR\\_FAQ\\_2019-02.pdf](https://www.opennetworking.org/wp-content/uploads/2019/02/ONF_Licensing_and_IPR_FAQ_2019-02.pdf)

<https://www.opennetworking.org/wp-content/uploads/2017/07/ONF-IPR-Policy-2016.pdf>

# New Name Needed?



- Any software for which users are expected to enter additional FRAND patent licenses shouldn't be called "open source"
- We need a new term to describe this type of software



Maybe call it:

"disclosed source code" "crowdsourced code"

"modifiable, redistributable source code"

"FRAND published source code"

# Call to Action

- Be aware. Educate your fellow travelers working in open source and standards.
- Join the industry discussion -> contact us<sup>1</sup>
- Think about this before (ideally) you structure new standards or open source implementations of standards
  - Depending on an SDO's IPR policy, it maybe possible for OSS promises to coexist with – and be complementary to – FRAND standards.
  - Think about modularity from the get-go when developing new standards.<sup>2</sup>

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[2] See OASIS references in Simon Phipps' paper at

<http://www.openforumeurope.org/release-of-opinion-paper-on-open-source-and-frand-by-ofa-fellow-simon-hipps/>

# Summary: What are We Advocating?

Open Source Software is software provided under an OSI-approved license without the need for any further license or other encumbrance on the subsequent use/distribution of the software.

- See <https://opensource.org/osd-annotated>

Promote consistency and transparency in use and discussions about Open Source Software. Don't call it "open source" if users are expected to enter into additional FRAND patent licenses in order to use it.



# Reading

## OPEN SOURCE AND FRAND: WHY LEGAL ISSUES ARE THE WRONG LENS

Simon Phipps

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THE COLUMBIA  
SCIENCE & TECHNOLOGY  
LAW REVIEW

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STLR.ORG

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COMMENT – WORK IN PROGRESS

OSS AND FRAND: COMPLEMENTARY MODELS FOR INNOVATION  
AND DEVELOPMENT<sup>†</sup>

Van Lindberg<sup>\*</sup>

[1] <http://www.openforumeurope.org/release-of-opinion-paper-on-open-source-and-frand-by-ofa-fellow-simon-hipps/>

[2] <http://stlr.org/2019/03/04/oss-and-frand-complementary-models-for-innovation-and-development/>



Thank You