

# LINUX USERS' GROUP OF DAVIS

## A BRIEF HISTORY OF COPYRIGHT, COPYLEFT, AND SOFTWARE LICENSING

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 (TEXT AND ARRANGEMENT)  
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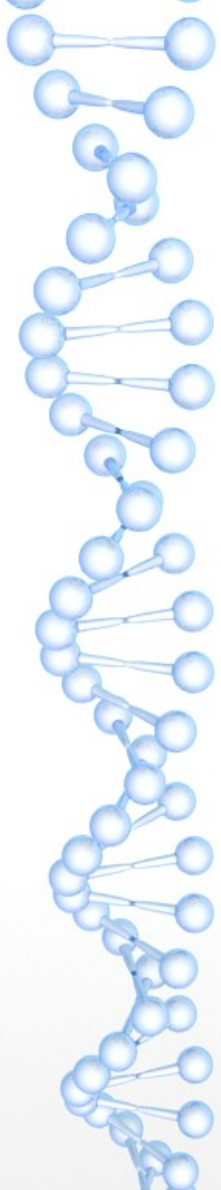
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## What IP Protection Is All About

"...patents and copyrights are exclusive rights of limited duration, granted in order to serve the public interest in promoting the creation and dissemination of new works."

*Brief for Ochoa, Rose, Walterscheid, the Organization of American Historians, and H-Law as Amicus Curiae Supporting Petitioners at 28, Eldred v. Ashcroft, 537 U.S. 186 (2003) (No. 01-618) (Lawrence Lessig!)*

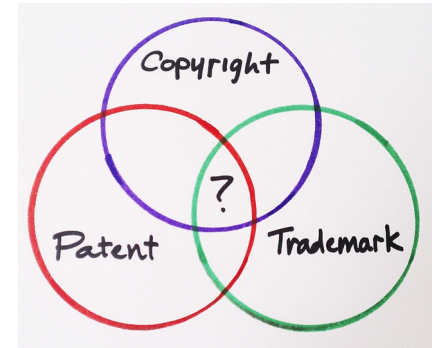


IP: Intellectual property.

- Patents or Trade Secrets
- Copyrights ©
- Trademarks ™

To encourage creativity by granting exclusive rights for a set period of time: capitalization on a product

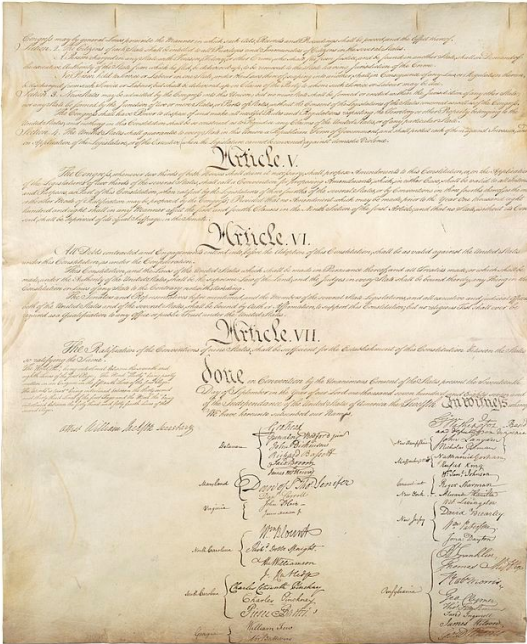
In exchange: give it to the public domain after that time is up



# IP Protection Is a Federal Thing

Constitutional Basis: Article 1, Section 8:

“The Congress shall have Power...To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries”



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# History of Copyright

Surprisingly: The Romans didn't really do it first.

- If you could afford the materials, the time, and/or a slave trained as a scribe, you could feel free to copy any book you wanted



<https://en.wikipedia.org/wiki/Scriptorium#/media/File:Escribano.jpg>  
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# The First Copyright Battle

Literally a battle! ~561 CE:

## Battle of Cúl Dreimhne (Cool Drevne)

Columba copied a text from Finnian.

Finnian demanded the copy, took the issue to the king, who ruled, famously, “To every cow belongs the calf, to every book belongs the copy.”

Columba got mad and got the O’Neill clan on his side to rebel. They fought the king’s armies and won, around 3,000 died.

Columba felt bad and went into exile in Iona, where he founded an abbey, which became renowned for centuries.

He was sainted as St. Columba, patron of bookbinders. As was his original boss, St. Finnian, patron saint of Ulster.



[https://en.wikipedia.org/wiki/Columba#/media/File:Columba\\_at\\_Bride%27s\\_fort.jpg](https://en.wikipedia.org/wiki/Columba#/media/File:Columba_at_Bride%27s_fort.jpg)  
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# Guess What Changed Everything

~1440CE: Yeah, that thing.

Governments immediately started controlling printing.

By 1500, laws were already in place granting monopoly rights to print certain materials.

1662 Licensing of the Press Act (UK):  
*“An Act for preventing the frequent Abuses in printing seditious treasonable and unlicensed Books and Pamphlets and for regulating of Printing and Printing Presses.”*

Superceded by Statute of Anne in 1710



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# Back to America

Copyright Act of 1790  
1831 Revision

Copyright Act of 1909

Copyright Act of 1976  
Reproduction  
Derivative works  
Distribution  
Performance  
Display  
Fair Use

Amended in 1980 to include SOFTWARE.

Sonny Bono Copyright Term Extension Act of 1998  
(Mickey Mouse Act)

Authors after 1978: lifespan + 70 years

Corporate or anonymous authorship: earliest of 120 years after  
creation or 95 years after publication

Prior to 1978: It's complicated, but Mickey Mouse is safe until  
at least 2024



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# Software Licensing

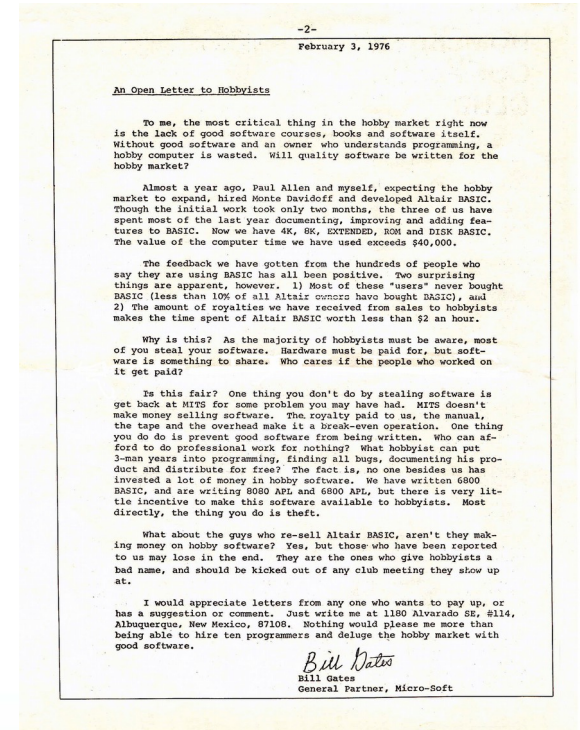
Blame IBM: 1969 Antitrust Case

1976: An Open Letter to Hobbyists

Prior to 1976 CONTU ruling and 1980 amendment, software was all “Public Domain”

PD: Unencumbered by IP rights. A few examples:

- Rogue
- Spacewar
- ELIZA
- SQLite
- SHA-3

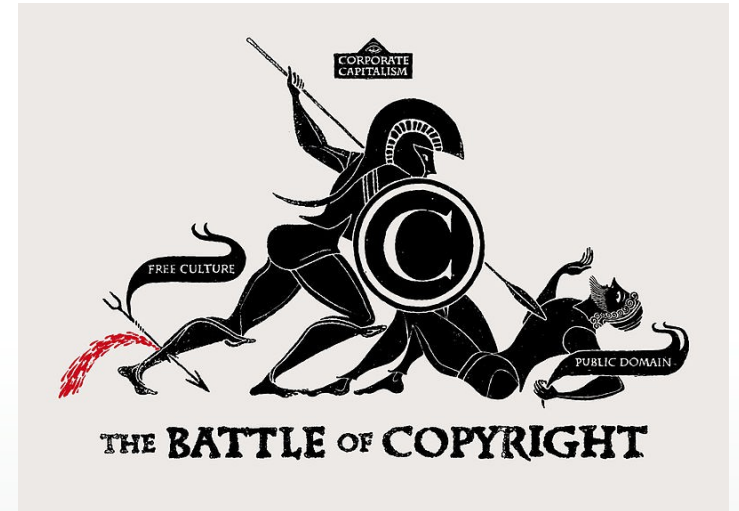


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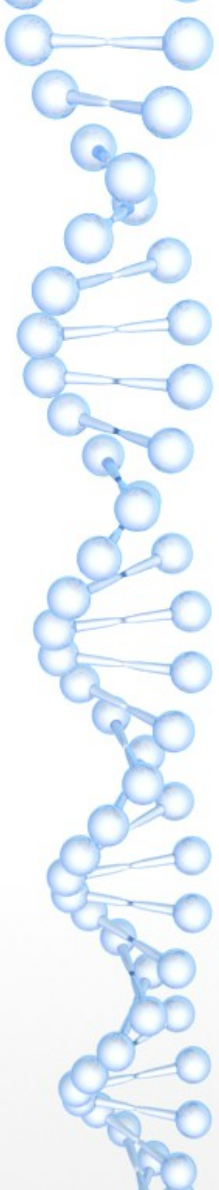
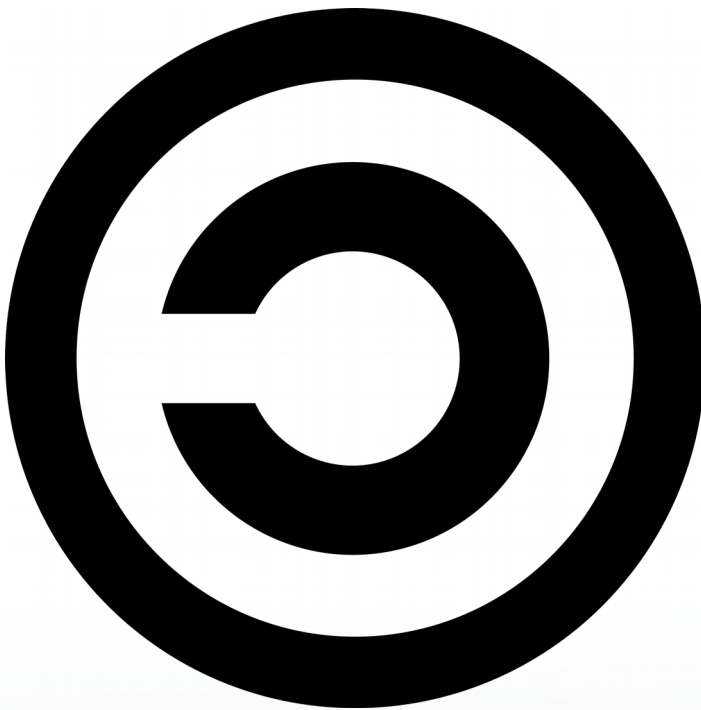
# Software Licensing Today

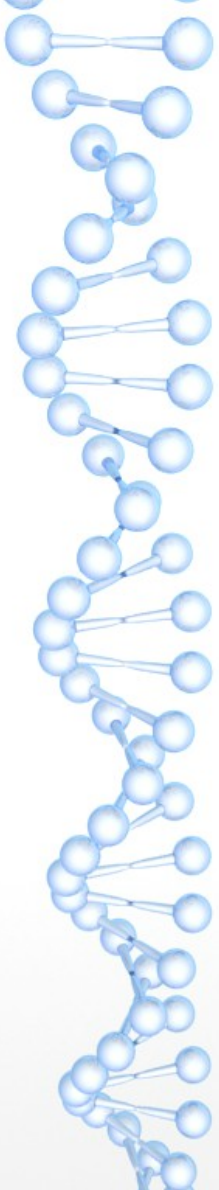
Licensed, not sold: Avoids transferring the rights of ownership

Side-steps First Sale Doctrine, a part of US law officially since the Copyright Act of 1976, but recognized since 1908: *Bobbs-Merrill Co. v. Straus*, 210 U.S. 339



# Copyright





# GNU General Public License

- Use for any purpose, commercial or otherwise
  - Change, modify, create derivatives
  - Distribute original or derivatives as binary or as source
- BUT:
- Any copies or derivatives must keep attribution to the original authors
  - Must be GPL
  - Must grant unlimited patent use rights to all recipients
  - Must make source code readily available, including directions compiling and installing
  - Disclaimer of warranty, but ability to make warranties





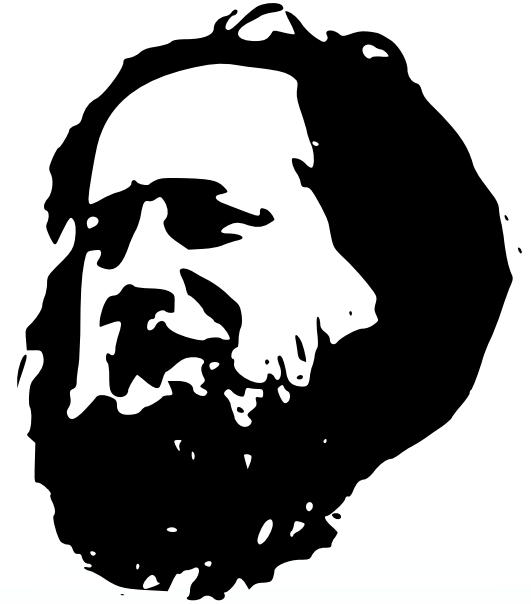
# RMS, FSF, GNU, EMACS

More acronyms please

<https://www.gnu.org/gnu/manifesto.html>

<https://www.gnu.org/philosophy/free-sw.html>

<https://www.gnu.org/licenses/licenses.en.html>



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- Written for X Window System
- Very popular and permissive
- Right to copy, modify, merge, publish, distribute, sublicense, sell
- Keep original copyright notice and permission to do so
- Disclaimer of warranty

<https://opensource.org/licenses/MIT>



Examples:

- Ruby on Rails
- Node.js
- JQuery
- Lua

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Ultra-permissive license family with many variants:  
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- 4: all advertising **MUST** mention author/organization
- Warranty disclaimer

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# Apache License

Developed by Apache Foundation as a license for webserver and other projects

GPL-compatible license, but not super free

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# Mozilla Public License

Created by Mozilla Foundation for Mozilla, Thunderbird, etc.

GPL-compatible, but:

MPL is on a per *file* basis, not a per *project* basis. MPL software can include software with other licenses, even if proprietary, closed-source, or otherwise non-Free

Mozilla licensing woes of 2001

<https://www.mozilla.org/en-US/MPL/2.0/>

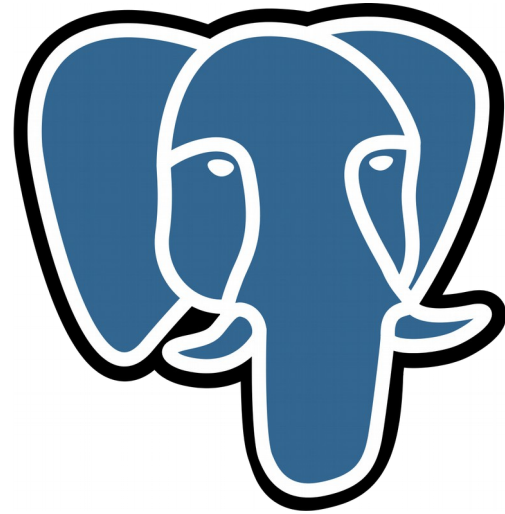


# PostgreSQL License

Very permissive license written for PostgreSQL

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- Keep attribution and warranty disclaimer
- Warranty disclaimer protecting University of California

<https://www.postgresql.org/about/licence/>



<https://wiki.postgresql.org/wiki/Logo>

([https://wiki.postgresql.org/wiki/Trademark\\_Policy](https://wiki.postgresql.org/wiki/Trademark_Policy))



# LaTeX Project Public License

Considered “Free software” but does not meet Copyleft or GPL standards

Covers LaTeX base and many LaTeX projects

- Distribute complete unmodified work
- Distinctions between original Maintainer and Modified Works
- Modifications must be named differently
- Not for the faint of heart
- Please don't

<https://www.latex-project.org/lppl/>



L<sup>A</sup>T<sub>E</sub>X

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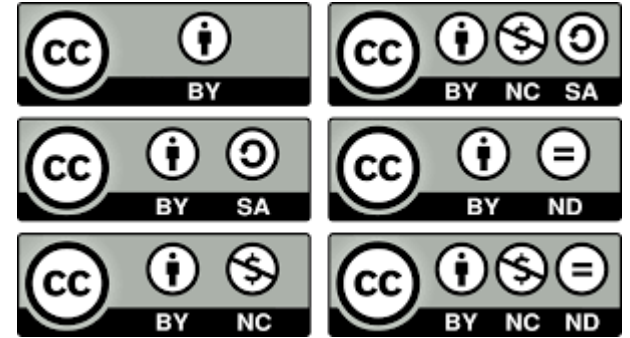
# Creative Commons

## History of Creative Commons

Tiered licensing system that allows for a wide range of increasingly restrictive permissions

Written broadly to be used for software, literature (fiction or non-fiction), photographs, art, etc

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# The WTFPL

For when you just give up

FSF-Approved and GPL-compatible  
Not OSI-approved



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Version 2, December 2004

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# Open Source Initiative

OSI started by a bunch of well-known folks in the wake of the release of Netscape's source code

“Open Source Definition” (OSD) based on Debian Free Software Guidelines by Bruce Perens

OSS/FOSS/FLOSS Alphabet soup

Not the same as FSF “Free/Libre” Software:

RMS has Things To Say About That

<https://www.gnu.org/philosophy/floss-and-foss.en.html>

<https://www.gnu.org/philosophy/open-source-misses-the-point.en.html>



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# Selected References and Sources

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- <https://fairuse.stanford.edu/2002/03/11/basic-copyright-principles/>
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- <https://www.techrepublic.com/blog/software-engineer/the-legal-basics-of-software-licensing/>
- <https://www.law.cornell.edu/supct/html/01-618.ZO.html>
- [http://itlaw.wikia.com/wiki/Computer\\_Software\\_Copyright\\_Act\\_of\\_1980](http://itlaw.wikia.com/wiki/Computer_Software_Copyright_Act_of_1980)
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- <https://medium.com/copyright-untangled/public-domain-why-it-is-not-that-simple-in-europe-1a049ce81499>
- <http://copyfree.org/>
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