

The Open Source Paradigm

The open source paradigm is transforming software development and distribution around the world. More and more consumers, companies, and government agencies are now demanding that they be allowed software freedom as enunciated in the five Open Source Principles from Chapter 1: The freedom to use, copy, modify, and distribute software, to have the source code, and to combine open source software with other software.

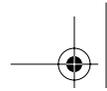
I used the word *paradigm* because it has an appropriately broad definition:

Paradigm: A set of assumptions, concepts, values, and practices that constitutes a way of viewing reality for the community that shares them, especially in an intellectual discipline. (The American Heritage Dictionary of the English Language, Fourth Edition.)

Open source licenses formalize the “assumptions, concepts, values and practices” of open source developers, distributors, and customers. They provide a legal framework for software generosity (sometimes coupled with reciprocity) that makes open source so tempting and so rewarding.

Paradigms evolve over time. The software world is not what it was in 1989 when the GPL and BSD licenses were first





introduced. I have no doubt that, starting shortly after this book is published, new open source licenses and new open source business models not currently anticipated will be introduced by creative people around the world. Indeed, that is the very foundational concept of the open source paradigm, which requires that people be free to learn from their predecessors and to create “derivative works.”

I fully expect that there will be new versions of at least some of the licenses described in this book. There are long running rumors of a GPL version 3, for example, and the Apache project just announced a new license. Version 2.1 of the OSL and AFL licenses were recently approved by Open Source Initiative. But I doubt that there will soon be an entirely different paradigm to replace this one, and so the legal underpinnings of these licenses that I have described are likely to be the most important ones to concern us for the foreseeable future.

What will probably happen is that some of those legal underpinnings—the definitions of *collective* and *derivative works* in the context of software, for example, or the laws regarding contract formation when software is distributed for free, or the policies toward software patents for industry standards—will be articulated by courts and legislatures. The complicated questions raised in this book may eventually be answered, making the choices among alternatives more obvious.

But those answers aren’t yet at hand, and so I must repeat a warning I gave at the beginning of this book. I have described only a few of the available open source licenses, open source business models, and open source legal issues that are before us today. New ones are appearing constantly. To rely on these few hints as the basis for important software business decisions would be foolhardy. Ask your own attorney for advice.

