

Institut für Rechtsfragen der Freien und Open Source Software

The GNU General Public License, Version 3,
and its DRM provisions

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Introduction to the GPL

- Most important license for Free Software, Open Source Software (e.g. Linux)
- Everyone is allowed to copy, distribute and modify GPL-programs without license fees
- „Copyleft“: derivative works have also to be licensed under the GPL if distributed and the source code has to be provided

Introduction to the GPL

- GPLv2 from 1991
- Public process to establish new license version
- General Licenses as soft law?
- 29 June 2007: publication of GPLv3

New provisions of GPLv3

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.

“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..

What ist the intention of free software developers?

- No legal restrictions to generate new code
- Further improvement of GPL-Software - no contradiction between right to modify and use of DRM systems
- No „vendor lock-in“ (disagreement in the community)

Practical problems under GPLv2

- „Tivoization“
- Digital signature asked to prevent installation of new software versions
- But: Interpretation of GPLv2 („plus any associated interface definition files, plus the scripts used to control compilation and installation of the executable.“)?

Are contractual provisions a solution?

- GPLv3 does not allow generally the circumvention of technological measures to protect third parties copyright
- Legal situation if GPLv3-code is used for the implementation of a DRM-system?
- Waiver to enforce DRM protection laws if GPLv3-Software is distributed

Are contractual provisions a solution?

- If GPLv3 programs are protected by technological measures, circumvention can not be prohibited
- Encryption keys have to be provided if a consumer product is concerned

Further Informationen

- <http://gplv3.fsf.org/>
- www.ifross.org

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