Openness

A healthy Internet is open, so that together, we can innovate. People who want to change the world should be able to build products and understand different points of view through open source code and idea sharing. Copyright and patent laws should be reformed so that in this digital age, they foster collaboration and economic opportunity.

From the Mozilla Manifesto:

#06: The effectiveness of the Internet as a public resource depends upon interoperability (protocols, data formats, content), innovation and decentralized participation worldwide.

#07: Free and open source software promotes the development of the Internet as a public resource.

One of the most powerful and amazing features of the Internet is its capacity to empower innovation. The 'garage' origin story of Silicon Valley—billion dollar tech companies started on shoestring budgets with a couple of computers, empty space in a garage, and an idea - paints a unique picture. With the building blocks provided by the open Internet, each individual innovator has an opportunity to create the next big thing.

But this openness for innovation is fragile. It depends on a careful balance of open technology systems and legal frameworks that encourage innovation. These cannot be taken for granted, particularly since some benefit more, relative to their competitors, by building walls around parts of the Internet. Gates, restrictions and barriers mean tolls, fees and arbitrary limits can be imposed on many - and lead to short term gain for a few. But such myopic and self-interested pursuits by some reduce the benefits of the Internet for all.

Intellectual property (IP) law can be a conscious balance between exclusionary rights and exceptions that supports innovation and protects creators. Its three structures, copyright, patent, and trademark, cover different pieces of the IP landscape. Trademark systems stand distinct from the other two, as clear trademark law and policy effectively drives markets and consumer clarity. In contrast, modern-day protectionist trends in copyright and patent law tend to ensconce rightsholders as gatekeepers over creativity. A variety of pursuits—from making memes online, to scientific research and technology innovation—are chilled as a result.

To Mozilla, the ability to create must be empowered, not restricted. The Internet must be built on and through legal and technical infrastructure that empowers experimentation, change, and opportunity. To make that a reality, open source and open standards must continue to be at the heart of the Internet, and pro-innovation and openness policies, products, and practices its structure and support.

This is part of a series of briefs intended to provide more depth into Mozilla's thinking and actions on five key issues that comprise Internet health. Their objective is to educate, to guide, and to inspire action. They are meant to be illustrative, rather than exhaustive.

Key topics in openness:

Open Source   Copyright   Patents   Read More

Open Source

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Open source is the engine that powers the Internet. It promotes innovation, trust, and control.

Open source software products, systems, and processes offer tremendous benefits for the entire tech and Internet ecosystem. Being open can be hard. It exposes every wrinkle and detail to public scrutiny. But it also offers tremendous advantages. It encourages creative and layered innovation, not only from employees of an organization but also external contributors. It fosters transparent decision-making and user trust. Its merits have been proven - open source software is the engine that powers countless pieces of the Internet, ranging from well-known programs like the Apache HTTP Server and Red Hat Enterprise Linux, to less-known software programs like cURL that, behind the scenes, help power connectivity in cars, printers, and televisions. But so too have its complications, particularly where open source software projects lack the resources of a traditional corporate support structure. And for many companies, open source has settled into a tactical role of commoditizing complementary pieces of infrastructure, keeping other strategic assets—perhaps increasingly many—proprietary for exclusive advantage.

At Mozilla, we contribute directly to the open source software ecosystem through our products, our build systems, and our back-end systems. We foster community collaboration in the development of our code. We advocate for open source with industry and government, and evangelize to many different audiences all around the world. And we directly support open source software projects through a range of grants, contributions, and mentorship, like MOSS.

As the Internet's trajectory continues to evolve from desktop-first to mobile-first, and other emerging form factors, the established central role of the web (powered at the client, the server, and in between by open source software) is increasingly taking a backseat to the app model of mobile platforms, build on closed source and closed systems. The champions of open source must adapt to this new reality, and continue their technical leadership to achieve the brightest possible future for openness.

Copyright

> Copyright law is intended to promote innovation and creativity, yet too often it impedes it. Strong protections are needed for independent creators and intermediaries.

In many countries, intellectual property (IP) rights - including copyright—arose from pragmatic motivations, and were scoped with the intention of maximally advancing the arts, creativity, scientific growth, and technical innovation. For example, the United States Constitution prefaces these rights as existing "[t]o promote the progress of science and useful arts"—and courts and statutes over the years have limited these rights and developed exceptions to them, such as to permit fair use by individuals (permission for unlicensed use of copyright-protected works in **certain circumstances**).

But today, offline copyright law built for an analog world is awkwardly interpreted and applied to the current digital and mobile reality. All too often, this results in limits on creativity, innovation, and growth, in the service of the narrow interests of a few. Fair use rights are unreliable, inconsistent, or nonexistent around the world. Safe harbors for technical innovators are being challenged where they should be strengthened. Key assumptions of Internet connectivity as being placed at risk by misguided lawmakers—such as the ability to create a hyperlink, a foundational and fundamental piece of connectivity, without which we would never have anything resembling a "world wide web".

To make copyright law work in the digital age, reform is needed: in the United States, Europe, and elsewhere. We need to engage in these fights to make sure copyright law gets better, not worse, for innovation and creativity. This is the work Mozilla is focused on.

Expert government agencies, like the Copyright Office in the United States, must understand the role copyright law and policy play in fostering (or hampering) economic and social opportunity. The public has already engaged en masse on copyright issues that impact the Internet, through mass-scale actions like the response to **SOPA/PIPA in the United States** and **ACTA in Europe.** We are working to keep the public engaged as we see new opportunities for impactful copyright reform, such as with the Digital Single Market discussions in Europe, where the European governmental institutions have proposed review of Europe's core copyright laws.

The future direction of copyright law and the scale of its exceptions and limitations is uncertain. Infringement of digital goods continues to be active, and many seek to use the law to mandate aggressive filtering in response—a response that would constrain lawful activity, impose burdens on legitimate business, and set a chilling precedent for innovation. But a wave of public pressure and pragmatic, analytical, strategic advocacy can turn the tide. We'll do our part at Mozilla to bring both of these forces to the table, to shape copyright to promote the interests of creators and innovators, and enable the best future for openness on the Internet.

Patents

The patent system is designed to support innovation, yet for software (particularly open source) it is often an impediment. Changes to patent law and process can help.

The patent system is challenging for software development. In many contexts, granting exclusionary patent rights contribute powerful incentives to invention and innovation, rewarding investment and creativity. But in technology, overbroad and vague patents, with exclusive rights that last far longer than the practical shelf life of the underlying software, create fear, uncertainty and doubt for innovators. **Patent trolls** target innovators for their own financial gain above and beyond their due, with no intention of investing in further technology growth or public benefit. And many software developers, particularly those in the open source community, choose not to seek patent protection, but to develop and share their works with the world directly—leaving overworked patent examiners unaware of their inventions and thus unable to use them as a basis to reject applications.

At Mozilla, we are working to help build a patent system that works both with and for open source software and innovation, not against them. We patent technologies in order to empower others to build on them, and to build open source. We developed the Mozilla Open Software Patent License Agreement, an **innovative license** to enable open behavior using the patent system. We work with policymakers on patent legislation globally where change is feasible. We engage in court cases on patent legal matters in support of pro-openness outcomes. We offer guidance to patent offices to help improve their processes, including in particular to understand better the open source technology world. And we engage in outreach and education to help engage a broader population on our side.

Patent law and policy in the context of software is being examined in a few places around the world. In India, a history of opposition to software patents in particular is undergoing active discussion, with unclear outcomes. Change appears feasible in the United States for some aspects of the problem, driven in large part by a concerted movement directed against patent trolls and patent litigation mechanics. Tractable short-term victory, and substantial support for improving patent quality, may yet be achieved and parlayed into long-term, broader change.

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Many organizations work on openness issues—here are some of our allies:

Copyright for Creativity: http://copyright4creativity.eu/

EFF's patent busting and related efforts: https://www.eff.org/patent

GitHub, an open source repository and community: https://github.com/open-source