Mixed License FOSS Projects

Unintended Consequences, Worked Examples, Best Practice

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About Me

Was a contributor to various projects

Worked in parallel computing, tools, mobile and now virtualization

Community guy for the Xen Project
Working for Citrix
Accountable to the Xen Project Community
Chairman of Xen Project Advisory Board

Led and supported a number of licensing related activities in 2016 (for Citrix and the Xen Project)
How many single license projects are in fact multi-license projects?
Examples of Projects that started out as single License Projects
Linux: GPLv2
QEMU: GPLv2
Xen Project: GPLv2
FreeBSD: BSD
What is the percentage of files in those projects that use the original license?
Linux: ≤ 96% GPLv2
QEMU: ≤ 86% GPLv2
Xen Project: ≤ 98% GPLv2
FreeBSD: ≤ 84% BSD

Data obtained with scancode toolkit 1.6.0 as an approximation
Files with no (c) header classed as “native license” for the purpose of this approximation
Many (most?) projects are not 100% single license
Reasons why code with difference licenses may end up in your codebase
You may need to interface with projects of another license
You may want to allow other projects (with another license) to interface with you
You may want to import code from other projects
Your project may not have clear rules that govern license exceptions (people assume it’s OK to add code with other compatible licenses increasing “entropy”)
...

These are all good and valid reasons for license exceptions
BUT: without guidance, best practice, tooling, ...

... you may expose yourself to unintended consequences
War Stories from the Xen Project
What is the Xen Project?

Developing Open Source Virtualization Technologies since 2003
> 10M Users

Several sub-projects
Xen Hypervisor, XAPI management tools, Mirage OS, Windows Drivers and Embedded/Automotive Support

Linux Foundation Collaborative Project
Financially sponsored by Alibaba Cloud, Amazon Web Services, AMD, ARM, Cavium, Citrix, Huawei, Intel, Oracle, Qualcomm, Rackspace
Our reasons for GPLv2 license exceptions
Want to enable Guest Support for non-GPL OSes
Most headers are BSD style or MIT licenses

Want to make it possible for such OSes to have Xen support
Some BSD style or MIT licenses
Some code is dually licensed (enable re-use elsewhere)

Want to enable non-GPL tools to interface with Xen
Key tools libraries are LGPL 2.1+

Want to be able to import code from other projects

We had no codified rules about licensing exceptions
We assumed we are a single license project
War Story 1:
The perils of license related information that is not easy to consume by lawyers
Late 2015: a large vendor (codename Dragonblood) is reviewing the Xen Project with a view of allowing their staff to contribute
Dragonblood company starts IP and patent review
Note: the IP lawyer is very thorough

Evaluates license, COPYING files, runs FOSSology, ...

- Picks up a number of mismatches between COPYING file and reality
  (e.g. the COPYING file stated that headers are BSD, but some were MIT)

- Lots of questions about the rationale for licensing exceptions
  (unfortunately this was not always easy to find out)
Dragonblood company won’t allow staff to contribute until all questions were resolved

Ended up doing lots of code archaeology to answer questions and secure future Dragonblood contributions

- Reason for why a license exception existed
- Rationale for why a piece of code was imported and where it came from
Dragonblood company allows staff contributions
Why did this take so long?

Needed information was present, but not readily consumable
Information was in commit logs, sometimes in source files, sometimes in COPYING files, sometimes in mailing list conversations referred to from elsewhere

Inconsistencies
Which confused the IP lawyer and didn’t build trust

Lawyers tend to work on multiple projects
Elapsed time periods with no activity
What did we do?

In-tree information on license exceptions
Guidance on license exceptions:
  – When do we use what license
  – Rationale for specific and classes of exceptions
COPYING file for each non-GPLv2 component

README.source files (one per directory)
For code imports (even for GPLv2 imports) tracking:
rationale, source, and other relevant information

Fixed inconsistencies in documentation
A few things we merely documented
E.g. some imported code had inconsistent licenses (license headline said MIT, text was BSD)
War Story 2:

Relicensing a key component: a worked example with complications
Patch Series:

Make ACPI builder available to components other than hvmloader

Enabling a major new piece of functionality (PVHv2)
A bit of taxonomy and terminology
Console

VM₀ (or Dom0)

Toolstack
libx1 / libxc

Dom0 Kernel
Drivers

VM₁
Applications
Guest OS
Drivers

VM₂
Applications
Guest OS
Drivers

... n

VMₙ
Applications
Guest OS
Drivers

Config
Scheduler
MMU
Timers
Interrupts

HW
I/O
Memory
CPUs
The licensing view of the previous diagram

VM₀ (or Dom0)

- Toolstack
  - libxl / libxc
- Dom0 Kernel
- Drives

VM₁

- Applications
- Guest OS
- Drivers

- Public interface headers = MIT or BSD
- Core components & drivers = GPL v2
- Drivers = GPLv2 & misc licenses
- Libraries for 3rd party code = LGPL v2.1
- 3rd party stuff = Not in our control

Config  Scheduler  MMU  Timers  Interrupts  HYPERVERSOR

UTILITY FUNCTIONS FOR HYPERVERSOR, LINUX, ETC.  TOOLS
Zoom: ACPI Builder change

- VM₀ (or Dom0)
  - Toolstack
    - libxl / libxc
  - Dom0 Kernel

- VM₁
  - Applications
  - Guest OS

Want to use

ACPI builder <-> hvmloader

HYPervisor

Tools
Our Options?

Do a clean-room re-implementation
Too hard

Allow GPLv2 encumberment of libxl / libxc and its consumers
Too disruptive

Relicense
Seemed relatively straightforward
Goal: Relicense ACPI Builder to LGPL v2.1
Observation

Refactoring and new feature development may require *unanticipated* license changes.

Could have been avoided with more foresight.
Identify © holders

© headers of files
Authors
Signed-off-by tags (DCO)
Code Import history

List of © holders

Individuals
@gmail.com, @xen.org, ...
Companies
@company.com
Identifying © holders: Easy, right?

Tooling: Hg to Git conversion, code motions, …
Can lead to an incomplete list of © holders due to tooling issues

Was the code (or some of it) imported from elsewhere?
You may want to run FOSSology or similar
If yes, there may be more © holders
In our case, the code was imported from Linux
There could potentially issues with CLA’s (if parent project has CLA’s)

Use of private email addresses by company employees
If yes, you probably have to ask both
Chasing individuals can be harder than chasing companies
List of © holders

Approval of all © holders

Approval?

Yes

No

Commit

Workaround

Individuals
Contact by e-mail

Companies
Find company stake-holders that can make a decision
In our case: most companies were also Advisory Board members

Chasing and follow-up
By LinkedIn, phone, etc.
Sometimes e-mail addresses change

Companies
If you don’t have an up-to-date contact you will have a challenge
Mid 2016: contributor XYZ (working for vendor codename Dendrobium) could not be tracked down and approval could not be obtained
Find new contact details of XYZ

Enlist help from Chinese companies

Searched for Dendrobium FOSS contributors

Searched for Dendrobium FOSS staff

Failed (tried LinkedIn, etc.)
Because XYZ is based in China

Failed
Tracked down individual, but that did not help. The individual changed company and the team in Dendrobium did not exist any more.

Failed
There were none; not a FOSS company

Succeeded via LinkedIn
Worked on a contingency plan
Eventually got approval (took 2 months)
Contingency Plan

Made use of the fact that **binaries**, not source code, are licensed
And that not all functionality was needed in the LGPL v2.1 library

Could not remove the change by Dendrobium
  – Too far in the past and a key piece of functionality
  – Too complex for “fair use” clause

Build two variants of ACPI Builder library from the same codebase
GPLv2 and LGPL v2.1 variants
  – Keep GPLv2 code clearly separated in the source tree
  – Not ideal from an engineering perspective

**BUT:** ugly, not easily maintainable, hack
Pain Points

Tooling
Pre-Git code motions (delete, create)

Documentation
No README.source file for import from Linux

Nearly missed code import

Sign-Off’s on Company time
In the early days of the project many people signed off DCO using private e-mail addresses or Xen alias

Approval
Getting approval from all stake-holders
Implemented a backup (ultimately not needed)
War Story 3:

The unintended consequences of mixing GPL / LGPL version X only code with GPL / LGPL version X or later code
Beginning 2016: vendor (codename Dragonblood) was rather sensitive towards patents and GPL v3.
Code marked as GPL v2+ could be copied into a GPLv3 project.

GPLv3 projects are problematic for us from a patent protection perspective.

Thus, we may not be able to contribute to your project.

Dragonblood company IP lawyer (paraphrased). Does not reflect the views of the Xen Project.
Why did we have GPLv2+ code in our codebase? Was this a conscious decision?
**No:** Purely accidental, because some contributors copied license text from FSF (or elsewhere) without specifying the GPL version.
Is this issue specific to the Xen Project?
% of GPLv2 or later (relative to GPLv2 code) …

Linux: 14%

QEMU: 9%

Xen Project: 10%

FreeBSD: 32% ¹)

Data obtained with scancode toolkit 1.6.0 as an approximation

¹) Total is 7% GPL code of which 34% are GPLv2+, 84% BSD
What did we do?

Could we fix this?
Couldn’t find clear guidance and a precedence
Too much work/disruption and potentially divisive

CONTRIBUTING file
Added common © header templates
In particular for GPL v2 and LGPL v2.1

Raised awareness amongst committers

Issue went away
When I pointed out that other projects Dragonblood company contributes to, have the same issue

BUT: it is possible that Dragonblood company instructed their staff not to contribute to GPLv2+ files
A bigger issue!

If you are an L/GPL vX only project
L/GPL vX or later files in your codebase
➡️ could scare away some contributors

If you are an L/GPL vX or later project
L/GPLvX only files in your codebase
➡️ diminish your capability to upgrade to vX+1 in the future

Have mechanisms in place to avoid a mixture of L/GPL vX only and or later
➡️ worst of both worlds
Summary of Best Practices
If you want to stay single license
Need tooling to enforce

L/GPL vX only vs. L/GPL vX or later
Have some mechanisms in place to avoid a mixture

Document License Exceptions
Rules/conventions, rationale, instances
Provide © template headers

README.source files or similar
For all code imports (even for “native” imports)

Company / Personal Sign-off
Document conventions (@xenproject.org, @kernel.org)
Awareness by committers

Plan for the future
Consider licensing carefully for any code that may be re-usable
Questions