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## What's Open Source?

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When I mention open source software to almost anyone other than a computer expert, the response is likely to be the question, "What's open source?"

The answer is really interesting.

Open source software is free and generally available on the Internet. It is also generally distributed along with its underlying code or source code. A knowledgeable programmer can read and modify the underlying code of open source software to meet the needs of a specific business. Unlike open source software, commercial software is sold only in its unmodifiable, "executable" version.

Programmers who write commercial software are generally under a legal obligation to maintain the secrecy of the source code. In contrast, open source software is written as a collaborative effort, open to any programmer who desires to contribute.

The open source approach promotes rapid software development. One reason for the success of open source software has been the explosive growth of the web, which facilitates contributions by programmers around the world.

The open source approach also promotes reliability and stability in the software



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by means of independent peer review and widespread testing. Aside from the potential cost savings of open source software, especially for a large organization, many companies are drawn to open source software because of its reliability and stability.

Linux is the most widely used open source program. Linux is an operating system, an alternative to Unix and Windows. Linux is reliable and stable.

It requires less memory than other operating systems. It is used on a wide range of equipment, from mainframes to handheld computers. It is also secure, meaning that it is not easily susceptible to hackers and to viruses.

Major vendors such as IBM and Hewlett-Packard are investing billions of dollars in Linux development. The success of Linux is clear to anyone who attended the recent LinuxWorld conference at the Javits Center.

In addition to operating systems, open source has been successful in web servers. Apache is an open source web server that runs more web sites than any other web server. While countless other open source projects have been launched, however, the open source approach is not appropriate for all software projects. The entrepreneurial spirit continues to run strong in the software world, and most computer programs continue to be developed by profit-making companies.

As a lawyer representing both technology companies and computer users, I find open source intriguing because its approach is at odds with the principles that are fundamental to the contracts I often draft for clients.

The source code of commercial software is proprietary. It remains a secret. Software companies try to maintain their competitive edge by keeping the source code out of the hands of potential competitors. Commercial software license agreements prohibit reverse engineering that would enable a programmer to decipher the source code. A company whose mission critical software is licensed from an independent supplier will often seek to have the source code placed in escrow to ensure the company's access to the source code in the event that the independent supplier goes out of business.

Open source turns the traditional software business model on its head. There is no need for a source code escrow because the source code is freely available over the Internet. This allows any company to customize the software to its needs. Anyone in the world can improve the code for the benefit of everyone.

Open source programs can and do coexist peacefully with commercial programs in many corporate computer systems. On the desktop, for example, users can continue to use Windows and Windows applications connected to a Linux server. Samba is an open source program that makes Linux look like a Windows file and print server to networked computers running under Windows.

Open source is not about to destroy commercial software. Ideally, a company should consider both open source and proprietary software for any given project and deploy the one that will do the job best.

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