

## fresh thinking

# Use the source

Jon Mendel on open source software, patents and common property

The software which make computers work are commercial secrets patented and copyrighted by the developers who write them. Eminently, Bill Gates and the Microsoft Corporation have grown rich by their computer code.

But recently significant security holes have been discovered in Microsoft Internet Explorer and Outlook Express software - the company's web browsing and email messaging programmes. The rise of internet commerce and banking, among other things, has brought a concomitant need for robust security for the storage and transit of sensitive information. Such problems have directed attention to what is known as 'open source' software. The Linux operating system and especially Mozilla software are widely viewed as much more secure than their Microsoft counterparts.

Open source software is, as the name suggests, software for which the source code is made publicly available and is not held under any restrictive copyright - that is to say, it is issued under a licence that maintains its free availability to all. This means that anyone who wants to can view the way the code is written and may edit it - to revise the programme or create new software. The past ten years have seen a rise of a culture where basic elements of some computer software are shared freely between developers.

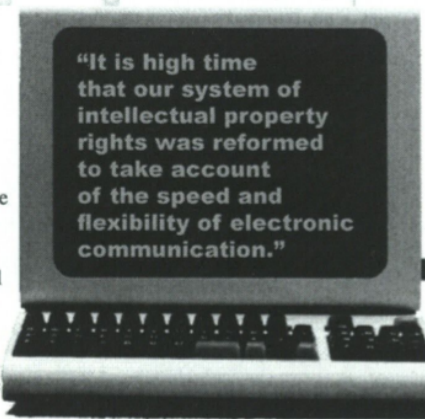
The open development of such software means that it is exceptionally customisable. The large number of people who have access to and improve the code means that new features can be added and bugs (faults) can be dealt with at impressive speed.

This approach can be extremely efficient - for example, the responsiveness with which the Mozilla Foundation releases fixes to security holes in their software leaves Microsoft's development cycle in the shade.

Users of conventional software are required to pay for periodic 'upgrades' of their purchases, in order to ensure their software's 'improvement' and continuing compatibility and usability. The communications expert Jeremy Valentine has argued that, when analysing the distribution of software under standard patent laws, "the distribution and sale of narcotics is the only example which compares here". The user is given a little

of the product cheaply, to help them develop a taste for or reliance upon it, then charged again and again to maintain what is seen as a reliable supply. Perhaps what may ultimately cause this model of software supply to collapse is that - with recent security problems - Microsoft is no longer seen as a reliable 'dealer'.

Open source software, on the contrary, follows a different model. It is one which is much closer to that which the US academic Richard Doyle found in the development of new strains of cannabis, in communities which allow its use. Many hands working together, and allowing others to build freely on their work, can achieve a remarkable amount of progress very quickly. Rather



than trying to retain exclusive use of their developments, knowledge that is developed in common can spread very rapidly through our societies - in Doyle's terms, 'overgrowing' them. In the case of open source software, one might be better to talk of 'overcoding' the globe.

So we see that the value of openly applied labour and expertise melds into the IT commonweal. The process is perhaps analogous to the embodiment of certain 'improvements' of land - such as in the conditioning of agricultural soil over time - into what is considered its 'unimproved' value. This is labour as gift, in a new modern sense.

Open source models of copyright thus offer us an exciting opportunity to move beyond the damaging models of ownership in which individuals can manufacture monopolies over particular inventions which become a foundation of progress. Microsoft is thus entirely

misguided to argue - as it does - that open source software destroys intellectual property: instead, it transforms it. In the best examples of open source software, the type of 'common' property seen is not the type of commons that will be easily eroded by damaging individual use, but instead a commons which is strongly defended by its users. Mozilla's rigorous 'peer review' system for modifications to its source code would be a key example here. This is property which is commonly owned and freely available to all, but also very effectively defended by its users. Code becomes an infinite resource, freed of monopoly, free of rent.

It is high time that our system of intellectual property rights was reformed in order to take account of the speed and flexibility of electronic communications. The effect of 'open source' gift effort will be key in this. By keeping their source code patented and largely secret, and by trying to defend their monopoly, Microsoft could be doing huge damage to the computer industry, and limiting the ways in which their own software may be developed. It is this restrictive model of patenting that destroys intellectual property. (How many users have lost valuable data due to problems with proprietary software!) It is models of more-open copyright that might better conserve intellectual property.

Although a wider move to an open source model of software development might be bad news for the Microsoft Corporation, it would, as *The Economist* argues, "benefit customers - through greater competition, lower prices and, not least, better software". Such a move would be exceptionally productive of intellectual property - common property in which all whose lives are affected by information technology can share. **L&L**

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