

English summary and keywords.

Usage of third party software in commercial applications.

This thesis deals with the legal implications of using software written by other parties (hereafter referred to as “third party software“ in conformance with industrial practice) in the process of developing a commercial application.

Software developers worldwide have always been looking for a way to minimize their costs and efforts by reusing already available software components in their own new programs and thus not investing into reinventing the wheel. This process is mainly done by incorporating open source or public domain software. It is readily available through the Internet download under seemingly non-restrictive licenses. Other options are also possible, like adopting industrial standards or settling for commercial licensing of relevant technology from other developers.

The goal of this thesis is to analyze this usage of third party software. From the legal point of view, main focus is on open source licensing, international copyright law and conformance of the Czech legal system with US, European and international licensing requirements. It also deals with other issues which arise from internet distribution of works, software development and patent constraints.

Terms and abbreviations used throughout this thesis are defined in the preface.

The work contains 5 main topics which are discussed in 9 chapters.

In the beginning (chapter 1-3), a brief history of the protection of computer programs as intellectual property is outlined. Both continental and common-law copyright systems are mentioned as well as the most important international treaties like the Bern Convention and TRIPS.

The second part (chapter 4,5) is dedicated solely to the problems arising from what can be called “international copyright law“. Problems of jurisdictions, applicable law and enforcement of intellectual property rights worldwide are discussed. Conflict of laws and legal systems is dealt with, again from the international point of view. Solutions to various problems arising from international distribution of software are being offered.

The weighty part of the thesis is chapter 6 which deals with the usage of open source software in the process of development of commercial applications. After a general introduction to open source, three of the most discussed open source licenses, GPL, Apache and BSD, are analyzed. Conclusions from previous chapters are used to determine whether these open source licenses are applicable/enforceable under Czech Copyright law.

Specifications and industrial standards (chapter 7) are becoming more and more important for software development. The extent to which a specification or industry standard can be used for the development of commercial software are discussed in this part of the thesis.

Different approach of US and Czech copyright law regarding software dedicated to public domain is researched in this last chapter. Czech copyright law does not acknowledge public domain dedication, only programs with expired term of copyright protection belong to the public domain. This poses some very interesting legal problems when dealing with international distribution of programs.