

Self-Inflicted Discrimination and GPL

Groklaw ([What is Wrong with RAND?](#)) recently complained that the Microsoft OSP discriminates against GPL and other open source licenses. Everything it says about the GPL license is true and I accept that the people quoted really do support GPL. However, the discrimination in question is self-inflicted and therefore not the fault of MS or the MS OSP.

Imagine that every Halloween I give away a bag of peaches to everyone who comes to my door wearing a red hat. You live next door and belong to a sect that while celebrating Halloween, prohibits wearing red hats on Halloween. Assume that you live next door and we have often discussed/debated the red hat rule. Have I discriminated against you?

I would say it is your choice to belong to the sect that prohibiting the wearing of red hats. I don't see where I have any obligation to arrange my affairs so that it accommodates your choice. Perhaps I really want to promote the wearing of red hats on Halloween, completely contrary to your sincerely held beliefs. Don't I also have a right to exercise my beliefs?

That is where the GPL discrimination argument fails for me. You decided that you did not want to wear a red hat. Why should I be charged with discrimination? I gave peaches to everyone who wore a red hat. You chose not to wear one. How is the GPL case any different?

GPL has decided a priori that it must have the sublicensing provision. Which is fine, but it has to live with the consequences of that decision. There has been no showing that a free implementation of OpenXML requires the use of the sublicensing agreement. Even if it were true, I don't think that rises to the level of discrimination. GPL followers have chosen a particular license and software development model and should allow others to do the same.

Personally I think open source is the superior development model but it should advance based on personal choice, not coercion to meet the vision of a particular license author. The Apache web server and the Postgres database are both good examples of open source development. If that model carries over to other software, then vendors will voluntarily abandon RAND licensing.

If the GPL sublicensing provision is preventing people from creating free implementations of OpenXML, my suggestion would be that they use a different software license. Microsoft has no obligation to make OpenXML implementable under GPL than I have to give you a bag of peaches if you show up on Halloween at my house without a red hat.

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