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- Compare granting a license to an assignment

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The GNU LGPL

- The Lesser (Library) GPL
 - Originally designed to encourage adoption of libraries, to enable development of “closed” programs that linked against the library, while keeping the library “open”
- Example: GNU C library is licensed under LGPL
 - Modifying library = derivative work, must license under LGPL
 - A work that “uses” (links against) the library is not subject to the LGPL

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The Affero GPL

- Attempts to address the “network loophole” in the GPL
- Adds the following provision to the GPL:
 - If you modify the Program, your modified version must prominently offer all users **interacting with it remotely through a computer network** (if your version supports such interaction) an opportunity to receive the Corresponding Source of your version

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Organizational Risks

- For “closed source” shops:
 - License “infection”
 - Lack of warranty or indemnification
 - Patent risks
- For open source projects:
 - Ownership of contributions
 - Enforcement
 - How do you know that your contributor has title?
 - Patent risks

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Open Source & Patents

- Patent risks: because OS licenses disclaim all liability, an organization may be exposed to unknowable and unmanageable patent risks
- Example, Bedrock v. Softlayer
 - Bedrock alleged infringement by Linux
 - Google lost a \$5M judgment at trial

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Patent Risks

- Does size matter? Maybe not ...
 - Lock in problems
- Is it possible to choose a non-infringing (or less-infringing) system? Not really ...
- Is commercial software really less prone to patent risks?
 - Code audits of proprietary systems?
 - Easier to detect infringement in open systems
 - Community response to address infringement (also shared by many large organizations)
- Indemnification/Insurance

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Ownership Issues

- In a typical project, many contributors
 - Distribution often follows a “90/10” (80/20?) rule
- Who has the power to enforce the open source license?
- Some projects require contributor assignments or licenses

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Example Fact Patterns

- Using an open source compiler
- Linking against an open source library
- Including an open source header file in a project
- Including an open source DB in your project
- Modifying the open source DB in your project

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