

IBM to Help Open-Source Developers

Use of 500 Patents Could Boost Collaboration on Free Software

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Tuesday, January 11, 2005; Page E05

IBM Corp. plans to announce today that it is giving away rights to 500 of its software patents to help a growing community of developers who build software collaboratively and distribute it for free.

The donated patents span a wide range of technologies, from data storage to networking to electronic commerce. The company said the patents could be used by any individual or entity that is developing open-source software, which grew from the work of a handful of programming enthusiasts into a potent challenger to vendors of proprietary software systems such as Microsoft Corp. and Sun Microsystems Inc.

Unlike those systems, open-source software such as Linux is free, and anyone can use it, modify it or build on it. But no version of the software itself can be sold.

IBM has long led the nation in amassing technology patents and earning billions of dollars by licensing them, but it has made open-source software a key part of its business in recent years. By selling support services to firms that deploy the Linux operating system, IBM and a handful of other companies helped make Linux viable.

Today's action could provide an additional boost by addressing what open-source advocates fear is a looming battle with proprietary software companies: patent claims.

Some firms have argued that open-source software has been cobbled together using pieces of code patented by others, leaving users of open-source open to lawsuits. Patents donated to the open-source community would no longer be a threat and would not require developers to engineer around them.

Microsoft, however, has embarked on a campaign to quickly acquire as many software patents as possible. The effort is being led by Marshall Phelps, who spent more than 20 years at IBM and was the architect of its patent strategy.

Microsoft has warned customers that open-source software could infringe on Microsoft's patents. Yesterday, the company declined to comment on the IBM move.

Open-source advocates have acknowledged that because open-source software evolves from contributions by loose confederations of independent developers, it is sometimes hard to ensure that other patents are not violated. When such violations become known, the community quickly rewrites the offending portions of the code.

Beyond litigation, patents held by proprietary firms could be used to block open-source software's ability to interact with those software systems, rendering Linux less useful.

IBM, Red Hat Inc. and Novell Corp., all open-source providers, previously pledged not to assert patent claims against Linux.

Now, IBM hopes to create a "commons" of patents available to the open-source effort, according to James Stallings, the company's vice president of intellectual property and standards.

"We recognize there is a tremendous amount of innovation in open-source, and we want to drive that growth," Stallings said. He said he hoped other companies would join the effort, eventually creating the need for a new organization run by the open-source community that can be the repository for donated patents and solicit new ones.

Stuart Cohen, chief executive of Open Source Development Labs Inc., which employs Linux creator Linus Torvalds, said many of the patents IBM is donating appeared to be significant and would greatly assist development of open-source software.

One patent, Stallings said, makes it easier for systems to identify and link to modules of software in other systems.

Katrin Verclas, head of the NonProfit Open Source Initiative, said the program could be a boon to nonprofit organizations, which often cannot afford proprietary systems or have particular needs that require extensive software customization.

Although it is unclear how companies might respond to the IBM initiative, one major company has already decided on a donation strategy.

Sun Microsystems plans to turn its Solaris operating system into an open-source product, according to Jonathan Schwartz, Sun's president and chief operating officer.

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