

Hacking Copyright: An Anecdotal History from Saint Columba to Richard Stallman

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Birmingham Law School

Monday 21st January 1-2pm,
UG05 Murray Learning Centre.

\\ which licence do you choose?

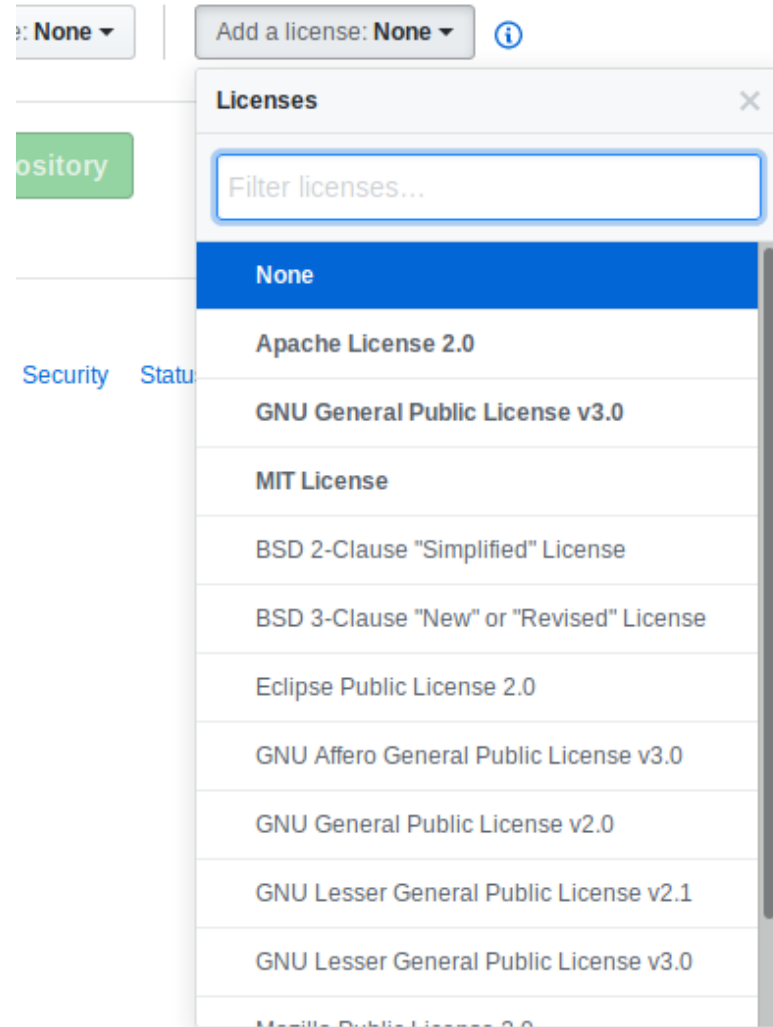


16

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you immediately clone the repository to your computer. Skip this step if you're in



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Version 2, December 2004

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0. You just DO WHAT THE FUCK YOU WANT TO.

\\ What I am going to cover?

1. What is Copyright
2. Copyright in history
3. GNU General Public Licence (GPL)

1. What is Copyright

\\UK CDPA 1988

3.—(1) In this Part—

"literary work" means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

[...]

(b) a computer **program**; and

(c) preparatory design material for a computer program;

[...]

\\Software as literary work

- '[A] literary work is intended to afford either information and instruction, or pleasure, **in the form of literary enjoyment.**'
 - Davey LJ, Hollinrake v Truswell (1894) 3 Ch 420
 - Endorsed in *Exxon*

"Top curve line; under curve line; under arm curves; measure round the thick part of the arm; measure round the thick part of the elbow; measure round the knuckles of the hand."

\\ Esolang

```
+++++[>+++++>++++  
+++++>+++>+<<<<  
]>++.>+.+++++..+++.>+<<  
+++++>+.+++-----  
-.-.-.-.-.>+>.
```


\\More problems with copyright & copying

* 1) Strict liability

[e.g.] subconscious copying (cryptomnesia)

-George Harrison (“My Sweet Lord” case)

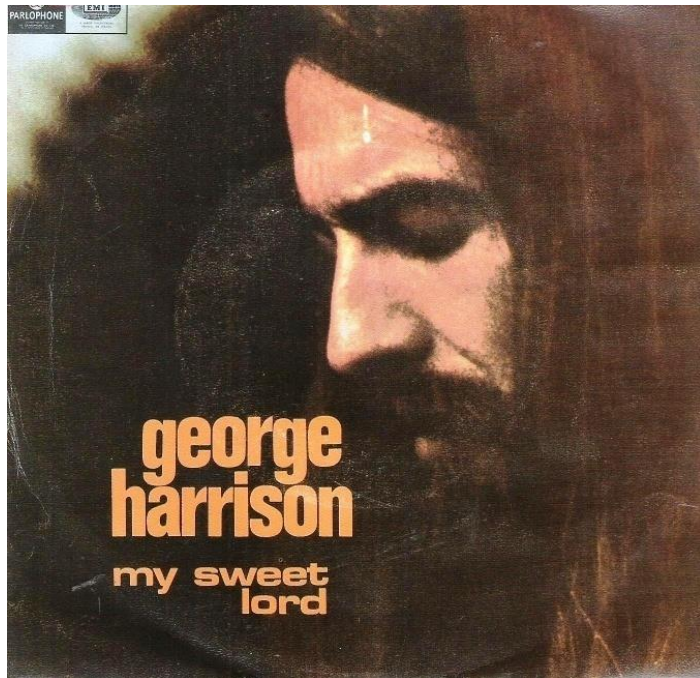
2. Moral right

-S.77 (CDPA 1988) does not apply to software programmers

3. Subsistence: function v expression

\\ Subconscious Copying (cryptomnesia)

- George Harrison-My Sweet Lord (1970)
- The Chiffons – He's So Fine (1963)



\\ Banksy's “copyright” notice





CODE



CODE

rangeCheck() from Oracle java.util.array.java

```
private static void rangeCheck(int arrayLen, int fromIndex, int toIndex) {  
    if (fromIndex > toIndex)  
  
        throw new IllegalArgumentException("fromIndex(" + fromIndex +  
            ") > toIndex(" + toIndex + ")");  
  
    if (fromIndex < 0)  
        throw new ArrayIndexOutOfBoundsException(fromIndex);  
  
    if (toIndex > arrayLen)  
        throw new ArrayIndexOutOfBoundsException(toIndex);  
}
```

rangeCheck() from Android TimSort.java

```
private static void rangeCheck(int arrayLen, int fromIndex, int toIndex) {  
    if (fromIndex > toIndex)  
  
        throw new IllegalArgumentException("fromIndex(" + fromIndex +  
            ") > toIndex(" + toIndex + ")");  
  
    if (fromIndex < 0)  
        throw new ArrayIndexOutOfBoundsException(fromIndex);  
  
    if (toIndex > arrayLen)  
        throw new ArrayIndexOutOfBoundsException(toIndex);  
}
```

<https://www.cnet.com/pictures/oracles-slideshow-alleging-how-google-copied-java-images/>

\\ Oracle v Google

17 **MR. BOIES:** Your Honor, let me approach it this way,
18 first, okay. I want to come back to `rangeCheck`. All right.

19 **THE COURT:** `RangeCheck`. All it does is it makes sure
20 that the numbers you're inputting are within a range. And if
21 they're not, they give it some kind of exceptional treatment.
22 It is so -- that witness, when he said a high school student
23 would do this, is absolutely right.

\\ Oracle v Google, No. C 10-03561 WHA

- “An API is like a library. Each package is like a bookshelf in the library. Each class is like a book on the shelf. Each method is like a how-to-do-it chapter in a book. Go to the right shelf, select the right book, and open it to the chapter that covers the work you need. As to the 37 packages, the Java and Android libraries are organized in the same basic way but all of the chapters in **Android have been written with implementations different from Java but solving the same problems and providing the same functions.** Every method and class is specified to carry out precise desired functions and, thus, the “declaration” (or “header”) line of code stating the specifications must be identical to carry out the given function.” (p.5)

\\ Tetris v Mino (iPhone)



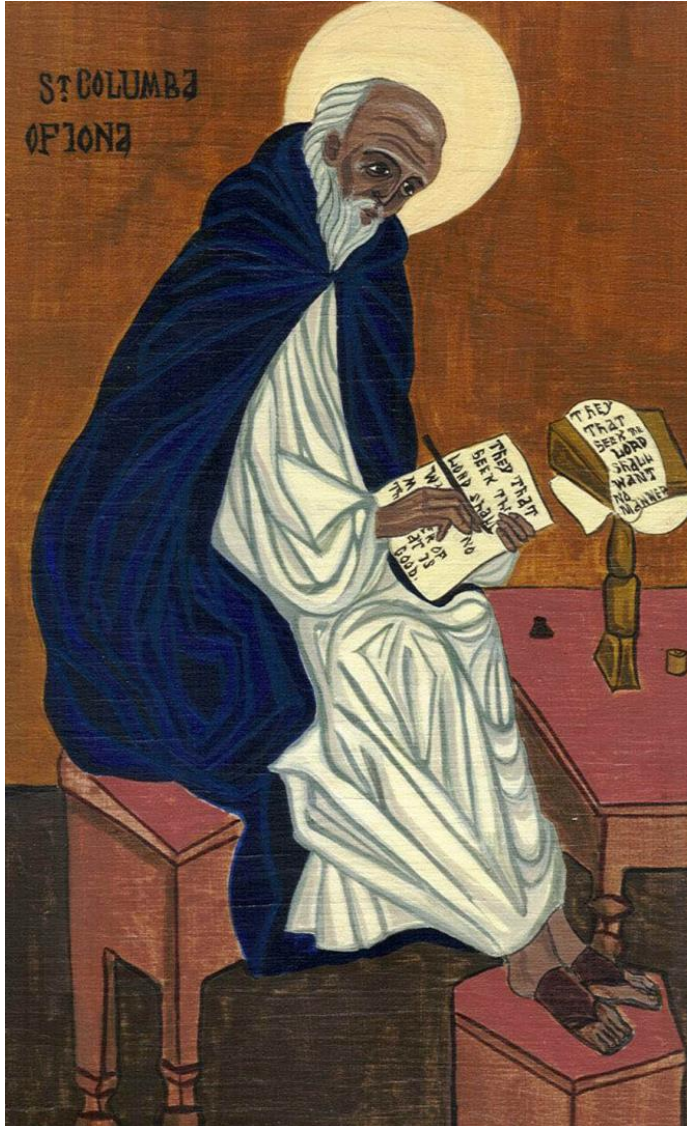
The Tetris® Company

Industry	Interactive entertainment
Founder	Alexey Pajitnov Henk Rogers
Headquarters	Honolulu, Hawaii , US
Owner	Tetris Holding, LLC (50%) Blue Planet Software (50%)



2) Copyright in history

\\ *Finnian vs. Columba* (c560, Ireland)



- Arguably the first significant “copyright” dispute
- Unauthorized copying
- Is St Columba really the Patron Saint of Copyright?

\\ Finnian vs. Columba (c.AD 560)

“Le gach boin a boinin, le gach leabhar a learbhrum”

(King Dermot's ruling)

*-translation: "To every cow belongs her calf,
therefore **to every book belongs its copy**"*

\\ Copyright Dispute – 3,000 Killed

UK Law Student

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Copyright Dispute – 3,000 Killed

admin | Nov 05, 2012 | Comments 0



The background

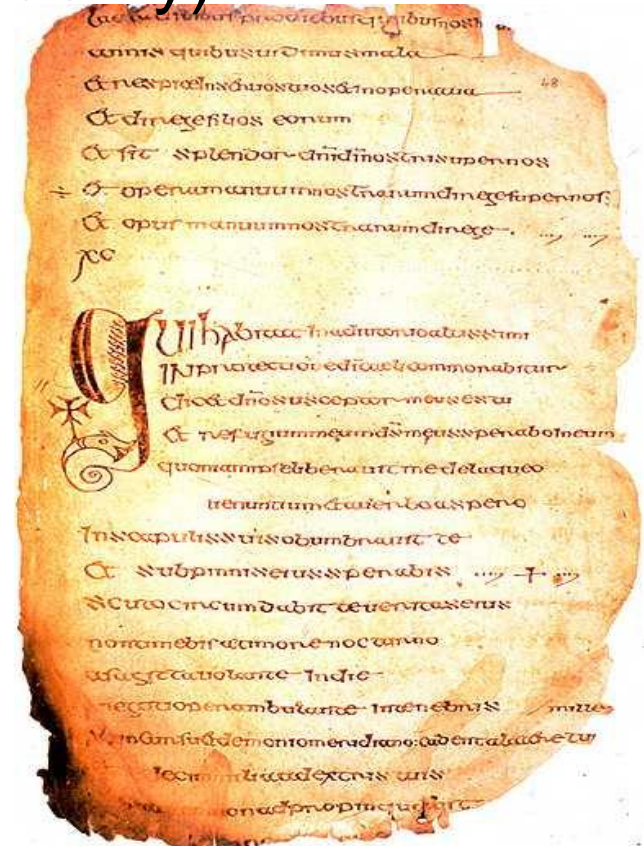
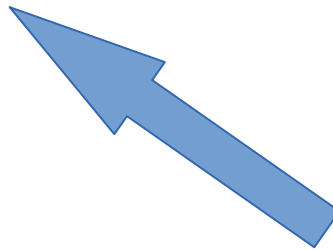
The Irish saint, Saint Columba, was a student of Saint Finian. Columba came from an important family and was understandably ambitious.

The Latin Psalter

Saint Finian came back from a pilgrimage with a psalter written in Latin. A psalter contains the psalms, usually laid out in the order in which they are most useful to a priest. At this time it was the only Latin in the whole of Ireland. It was extremely valuable, both as a work of art and for its intellectual content. Latin was a language which any educated gentleman could read. Before this psalters were in Ireland, very few people could read.

The First “Copyright” Dispute (c.AD 560)

Cathach (Dublin, Royal Irish Academy)



Source: THE ROYAL IRISH ACADEMY
<https://www.ria.ie/cathach-psalter-st-columba>

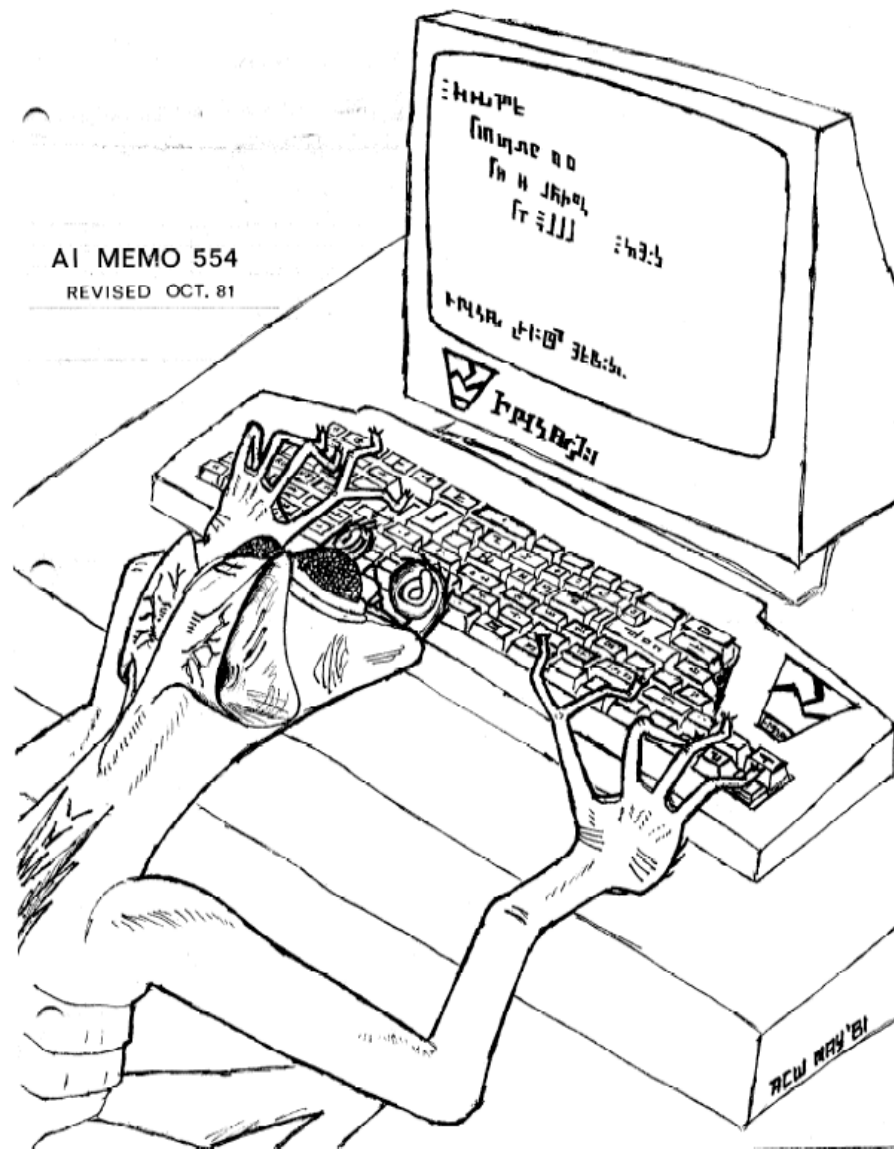
3. GPL (a.k.a copyleft)

\\Stallman's statement, 1981, *AI Memo 554*

"EMACS does not cost anything; instead, you are joining the **EMACS software-sharing commune**. The conditions of membership are that **you must send back any improvements you make to EMACS, including any libraries you write, and that you must not redistribute the system except exactly as you got it, complete***. (You can also distribute your customizations, separately.) Please do not attempt to get a copy of EMACS, for yourself or anyone else, by dumping it off of your local system. It is almost certain to be incomplete or inconsistent. It is pathetic to hear from sites that received incomplete copies lacking the sources [source code], asking me years later whether sources are available. (All sources are distributed, and should be on line at every site so that users can read them and copy code from them). If you wish to give away a copy of EMACS, copy a distribution tape from MIT, or mail me a tape and get a new one."

AI MEMO 554

REVISED OCT. 81



MASSACHUSETTS INSTITUTE OF TECHNOLOGY
ARTIFICIAL INTELLIGENCE LABORATORY

AI Memo 554

22 October 1981

EMACS Manual for ITS Users

by

Richard M. Stallman

A reference manual

for the extensible, customizable, self-documenting

real-time display editor

This manual corresponds to EMACS version 162

This report describes work done at the Artificial Intelligence Laboratory of the Massachusetts Institute of Technology. Support for the laboratory's research is provided in part by the Advanced Research Projects Agency of the Department of Defense under Office of Naval Research contract N00014-UU-C-0505.

© MASSACHUSETTS INSTITUTE OF TECHNOLOGY 1981

\\ James Gosling's decision

Date: Tue Apr 12 04:51:12 1983 | Subject: EMACS goes commercial

“The version of EMACS that I wrote is now available commercially through a company called Unipress...They will be doing development, maintenance and will be producing a real manual. [...]

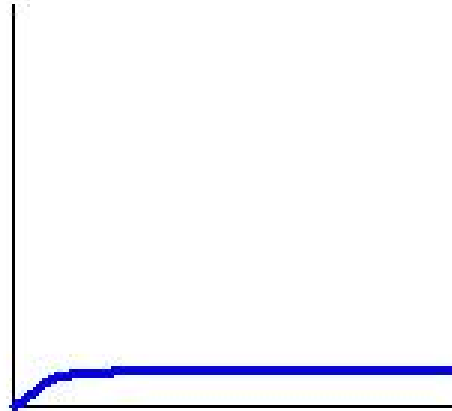
This is a hard step to take, but I feel that it is necessary. I can no longer look after it properly, there are too many demands on my time. EMACS has grown to be completely **unmanageable**. Its popularity has made it impossible to distribute free: just the task of writing tapes and stuffing them into envelopes is more than I can handle.

The alternative of abandoning it to the public domain is unacceptable. Too many other programs have been destroyed that way....”

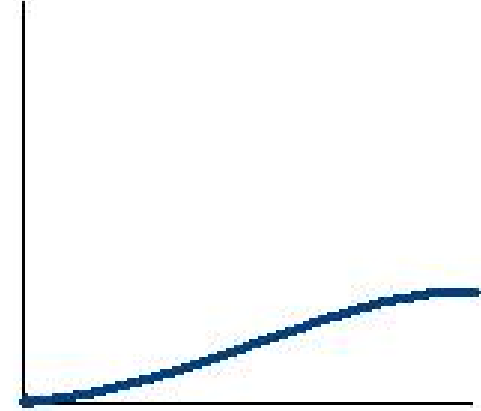
--quoted in CM Kelty, Two Bits, p.190

Classical learning curves for some common editors

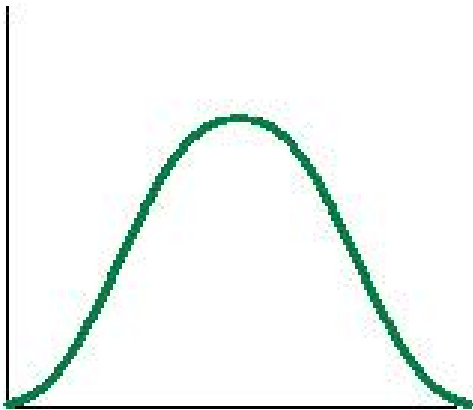
Notepad



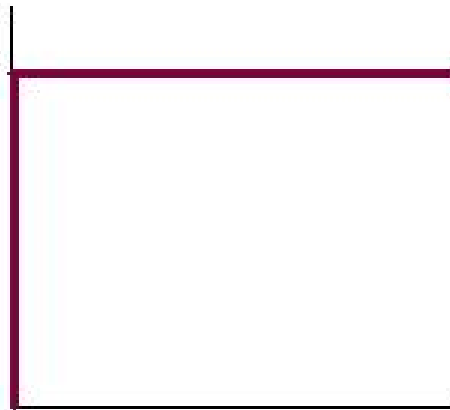
Pico



Visual Studio



vi



emacs



<https://stackoverflow.com/questions/10942008/what-does-emacs-learning-curve-actually-look-like>

\\ GPL 3.0 Section 5 (c)

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\\ GPL 3.0 Propagation v

Conveying

Section 1

To “**propagate**” a work means to do anything with it that, without permission, would make you directly or secondarily liable for infringement under applicable copyright law, except executing it on a computer or modifying a private copy. Propagation includes copying, distribution (with or without modification), making available to the public, and in some countries other activities as well.

To “**convey**” a work means any kind of propagation that enables other parties to make or receive copies. Mere interaction with a user through a computer network, with no transfer of a copy, is not conveying.

\\ GPL 3.0 (cure time)

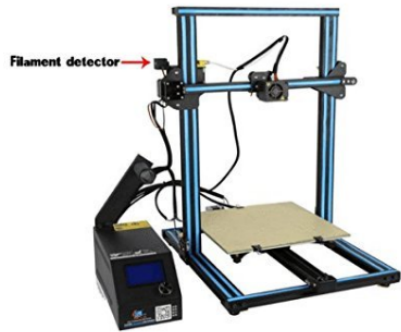
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Moreover, your license from a particular copyright holder is reinstated permanently if the copyright holder notifies you of the violation by some reasonable means, this is the first time you have received notice of violation of this License (for any work) from that copyright holder, and you cure the violation prior to 30 days after your receipt of the notice.

The Creality GPL compliance issue



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\\ GPL Cooperation Commitment

In order to address this imbalance in GPLv2 and LGPLv2.x license enforcement, **Red Hat, IBM, Google, and Facebook** announced in November 2017 a commitment to apply the GPLv3 cure provisions for their GPLv2 and LGPLv2.x licensed software. Since that time, over 40 companies have announced that they too were making the commitment ([see current list](#)).

The cure approach has support across the open source community, including individual developers and users. It is the same approach that was adopted in 2017 by over a hundred Linux kernel developers, and is also among the Principles of Community-Oriented GPL Enforcement promulgated by the Software Freedom Conservancy. Red Hat has adopted the cure approach for all new Red Hat-initiated open source projects that opt to use GPLv2 or LGPLv2.1. Similarly, a growing number of existing Red Hat-led GPLv2 and LGPLv2.x projects are adopting the cure commitment for new contributions. Finally, there is also an initiative to enable individual developers to add their names to the cure approach.

Source: <https://gplcc.github.io/gplcc/>