Bird & Bird

The Legal Challenges of Open Source
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Open source software is basically two things. It's a way to collaborate in the development of software and second it's a way to licence that software and with respect to the licencing model it's a radical new way of doing things compared to a traditional software model where you say you can only use it for this thing specifically and nothing else. But open source software gets you through the licence a lot of freedoms basically it says you can use the software for whatever you want to use this for. You can make modifications to the software, you can change make the right words and whatever and in order to do that you can also get the right to actually use and access and look at the source code and when you've done that you can distribute both the original software your modifications to everyone you'd like to.

Basically all the benefits derive from the fact that you get all these freedoms to use the software and these freedoms give you flexibility. It gives you vendor independence, but maybe the most traditional benefit of open source software is of course the licence is free so you don't pay for that and in the world where you are met as a company with software licence audit compliance on mass and that's really a threat then the fact that you know that you would always be in licence compliance or almost always in licence compliance is really a benefit seen from a company point of view. So the challenges are the same challenges that you would face with normal software licences that obviously you have to comply with the licence terms but there are certain things that you should comply with and these things can be I wouldn't say a big insurmountable challenge but it is

something that you actually have to deal with and if you are not doing that then you risk not maybe a big law suit by somebody that you would risk normally if you did not comply with the proprietary licence but you risk that you cannot use the software any more.

Open source software is used by everyone it's everywhere in the computing stack, from the inner workings of the internet through the servers through your computer the one that you are using on your desktop or laptop through the tablets, mobile phones through the internet of things and it's being used by small start-ups you would have very very few innovative small start-ups if they didn't have access to open source software all the way up to blue chip companies. Gartner, the big large consultancy firm that is a reference for most blue chip companies with special IT strategy have said that if you are not using open source software as part of your IT services you will have to explain why so open source is everywhere and open source is used by everyone.

Traditionally open source has been viewed by companies as something maybe a little bit dangerous something you should protect yourself against very defensively but today most strategists understand that open source is a new way of making business it's a new way of creating new revenue streams it's a new way of supporting the services of your company so today you should look at open source much more strategically much more offensively than in the old days. My advice today would be to look at open source with a much more open view much more open perspective and use it as a new way to actually create

revenue.

END

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