

# How to license interoperability? A start-up perspective

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*Mikko Välimäki, 23.6.2009*



# Collaboration imperative

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- No company is an island; this is especially true for software start-ups
- In the past it was possible to develop complete software applications in one company and sell them directly to global markets
- This is still possible today, even faster than in the past, but one must work with plenty of other companies to reach that goal

# Collaboration and IPRs

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- Software IPRs used to be simple: you had one product, one copyright, and one license
- Today, you may still have one product, but you most probably also have plenty of dependent third party components, with multiple IPRs, and multiple different licenses
- A start-up must negotiate on in-licensing and collaboration from the start

Ok, I want to license  
interoperability for my company!

## PC Software Applications

PC Software applications incorporating mp3 / mp3PRO encoding capabilities (encoder, ripper, recorder, jukebox).

### mp3 patent-only license.

This patent-only license is needed in case the mp3 software is developed in-house or licensed from a third party.

Decoder

- US\$ 0.75 per unit or US\$ 50 000.00 one-time paid-up

Encoder / Codec

- US\$ 2.50 per unit

### Minimum Royalties

Annual minimum royalties are payable upon signature and each following year in January and are fully creditable against annual royalties.

- US\$ 15 000.00 per calendar year

> Dear All,  
>  
> Recently I migrated my comp to RedHat Linux 9.0, when tried to play  
> a mp3 file, there is a message "License Issue".  
>  
> Can anyone advice me to fix this problem?  
>

Sorry, you can't fix License Issues. It is not a problem for you to  
resolve, others have to deal with Licences. Meanwhile though  
you can just go to

<http://www.xmms.org/download.php>,

get the source of the xmms 1.2.10, compile it and go on with it.



## NTFS-3G Stable Read/Write Driver

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The NTFS-3G driver is a [freely](#) and [commercially](#) available and supported read/write NTFS driver for Linux, Mac OS X, FreeBSD, NetBSD, OpenSolaris, QNX, Haiku, and other operating systems. It provides safe and fast handling of the Windows XP, Windows Server 2003, Windows 2000, Windows Vista, Windows Server 2008 and Windows 7 file systems.

NTFS-3G develops, quality tests and supports a trustable, feature rich and high performance solution for hardware platforms and operating systems whose users need to reliably interoperate with NTFS.

The driver is used by millions of computers, consumer electronics devices for reliable data exchange, and referenced in over [35 computer books](#). Please see our test methods and testimonials on the [driver quality](#) page.

### Download

The NTFS-3G driver is used by [over 240 distributions](#). Many, like Fedora, Mandriva, openSUSE and Ubuntu with over 8 million users, use NTFS-3G as the default NTFS driver. The release notes and the software changes can be found on the [Release History](#) page. You can [subscribe here](#) for new release notifications.

The latest stable version is 2009.4.4, released on April 2, 2009.

Availability:

[Stable Source Release 2009.4.4](#)
[FreeBSD FreshPorts](#)
[NetBSD Package Collection](#)
[Haiku Source Repository](#)
[NTFS-3G for Mac OS X](#)
[Mac OS X Fink Package](#)
[Mac OS X MacPorts](#)

[Mikko Valimaki from NTFS-3G Technology speaks in Patenting Software Conference 2009, Oslo, Norway](#)

[TelecommunicationNews: Verismo Networks Rolls Out New Enhancements for Its Award-Winning VuNow Internet TV Platform](#)

[Technology Review: Bypassing Windows with a Quick Boot](#)

[Stable NTFS-3G 2009.4.4 Released](#)

[CrunchGear: Review: Western Digital WD TV HD Media Player](#)

[Microsoft TechNet: Interop: Interacting with Windows from a Mac](#)

[CNET Editors' Choice: Belkin N+ Wireless Router with NTFS Support](#)

[Multi-Awards Winner QNAP Network Attached Storages Uses NTFS-3G](#)

[NTFS-3G Released POSIX File System Test Suite](#)

[The Most Reliable Security Provider Released F-Secure Rescue CD 3.00](#)

[CNNMoney.com: Novell Delivers SUSE Linux Enterprise 10 Enhancements](#)

[NTFS-3G enables Ubuntu 8.04 to be installed like any](#)

### Installation

Linux: [Most distributions](#) includes and uses NTFS-3G. Please use that one unless it's an [old version](#). If you wish to install NTFS-3G from the source code then make sure you have installed



# How to license in practice?

- “Open Source Software projects and ISVs should contact me to initiate a relationship with Microsoft.” Microsoft’s open source director Sam Ramji’s profile on LinkedIn
- NTFS-3G has asked for a license or other agreement since its founding in September 2008
- Next eight months generated a lot of automatic email replies, unanswered phone calls and comments on the type “we know your request and will look at this” without any progress into any direction



How do you find the right person to talk to?  
What if they still think IPRs are meant to exclude, not include?

# Start-up perspective

- “You can’t fix licensing issues”
- For many start-ups, licensing in is not easy even if they try hard especially if they have to face a company with thousands of employees, thousands of patents etc.
- Licensing in IPRs should be more transparent and open; everyone should know how to “fix” licensing issues; also other agreements than pure licenses can offer a solution (e.g. covenant not to sue)

But wait! Why would you want  
to license interoperability in  
the first place?



The only part which had to be duplicated was the [BIOS](#), which Compaq did legally by using [clean room reverse engineering](#) for \$1 million.

# Interoperability and IPRs

- Yes, software copyright directive and industry practice are ok with reverse engineered interoperability
- Patent law is not -- on the other hand software patent enforcement in Europe is extremely rare
- In any case, the fact is that all those major customers of yours who are selling in the United States may not go for it if they have any doubts on the “freedom to operate”; whatever you did in Europe does not matter

# Solution?

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- There is currently no effective legal or government mandated solution to the licensing issues; the solution should be also global, not regional
- The practical solution is collaboration no matter what the law says and whether IPRs exist; also other agreements than licenses count
- Licensing challenges must be solved by making patents and technologies more visible, and forcing companies in the long term to license every interoperable technology out; if they do not do so voluntarily, they should lose the possibility to enforce undisclosed IPRs