

An Interview on Open Source with Arnoud Engelfriet, IP Counsel at Philips in the Netherlands

April 2008



Arnoud Engelfriet

Mr. Engelfriet works as intellectual property (IP) counsel at Royal Philips in the Netherlands, specializing in software licensing and Internet IP issues. As secretary of the Philips Open Source Advisory Board, he coordinates the IP aspects of the use and contribution of open source software by Philips. His background in both computer science and IP law gives him a unique perspective on the opportunities and limitations of open source strategies and he has given numerous speeches on related topics.

Q: Mr. Engelfriet, in an article in the “Intellectual Asset Magazine” you recommend the use of open source software primarily for the commodity features of a product. Could you please expand on this recommendation?

A: Philips produces and markets consumer electronic devices, products aimed to simplify the life of customers. These products, be it television sets or handheld music players, have differentiating features that make consumers prefer a certain brand, but they also contain a lot of software commodity components that no user really sees or cares about, even though they are essential for product functionality. We want to focus our efforts on the differentiating features, so for the commodity components the best strategy is to deploy quality components at low cost. This is where open source software is a good fit.

Q: Would you say that the same strategy is applicable for commodity hardware components?

A: There have been some efforts to release hardware designs under an open license but I don't see it catching on. Indeed hardware parts are being more and more commoditized but in a different way. A few very large suppliers take advantage of economies of scale but they still need to make major investments in plants, maintenance, etc. to produce commodity hardware. Entry costs in the business are high and the established companies don't have much incentive to publicly release their designs or methods. In comparison, an open source software project may start on a smaller scale and grow as it catches on, which makes it much more interesting to get help from a community.

Q: Does this mean that consumer electronic devices are becoming more and more alike since the parts are delivered as commodities from a handful of suppliers?

A: Not at all. It simply means that product design has to move up a level and be built on top of a commodity infrastructure. The same is true for both hardware and software. Product managers should know which features to develop in-house, which to have made by others and which to implement using open source.

Q: This sounds very much like business logic – yet your primary role is that of legal counsel. Do you find that business people generally share your views on commodity versus differentiating features?

A: It's true that in the past, business people and legal counsel often worked separately, but at Philips we aim for an integrated planning process to bridge the gap. IP Counsels like myself get involved at an early stage of product development or strategy planning. It's not very effective to have business developers come up with elaborate plans just to have them shot down by legal departments in ivory towers.

Continued >>>



For instance, a supplier once came to me with advanced plans to develop a proprietary subsystem on Linux and I had to explain to them that it just couldn't be done due to the GPL license. That is a serious waste of time and energy. My role should be to make clear at an early design stage what is legally feasible and what is not in an integrated setting. And since this helps create better products at lower cost, the business is very much in favor of such an approach.

Q: Do you feel that the use of open source software is pretty much accepted today or do you still meet resistance to the very notion of OSS?

A: I don't see any resistance out of principle, it's more a question on what is the best strategy in each separate situation from a commodity-differentiating value creating perspective. Occasionally we've encountered customers that resist third party components in products due to fear of unaccountability but usually the issues can be sorted out. I sometimes have to explain that an in-house solution would be more expensive but not necessarily better and that the customer won't be able to cover costs in pricing anyway since competitors use cheaper OSS components. If they still hesitate we might offer liabilities to cover unforeseen risks.

Q: This implies that you don't see any major risks in using OSS in production today.

A: That's correct. The most common open source licenses and practices are built on sound legal principles. For instance, I don't see any risk at all that the GPL would be deemed invalid in a court. Also since so many big players deploy OSS today I can't see anybody being interested in that outcome in the first place. It's true that the licenses are written with a US-centric perspective so I wouldn't be surprised if they at some point will need to be adjusted to European legislation but again that would concern tuning of details.

Q: Open source software currently seems to be rapidly adopted in Europe although countries differ in this respect. What's the specific situation in the Netherlands?

A: You're right that there is a distinctive drive towards open source in the European Union today and perhaps even more a push towards open standards.

This is not only due to cost saving incentives but also reflects a desire to stay open as well as independent from vendors. The Dutch parliament recently adopted a plan to switch the country's public sector over to open standards. It also stated that authorities will be called upon to use open source wherever feasible. I believe that OSS will be even more prevalent in five years, even more so as SaaS (Software as a Service) catches on.

Q: Has Philips ever contributed open source code?

A: Yes we have. We regularly contribute bug fixes for open source we use. There was a joint effort in the Consumer Electronics Linux Forum driven by Sony and Panasonic where we participated. The industry-wide problem was that Linux really isn't designed for our specific needs. For instance the bootup time tends to be too long and also there were issues with memory access and Linux use on a system without a screen. While all the companies had capacity to solve these basic problems on their own, no differentiating potential was perceived so we agreed on a joint effort. Philips contributed with a hard disc access subsystem (ABISS) that was licensed as open source.

Q: One final question: MySQL admittedly delivers a commodity database released under the GPL. Would you call us an anomaly in your model of commodity-differentiation strategies?

A: Nobody wants to be in the commodity business without some kind of differentiator and you do indeed provide such a strong differentiator due to your development expertise and talent. Lots of major companies today build mission critical systems on MySQL and when they seek advise on security, optimization, support and other key issues they will turn to you and pay for the subscription offering and other services that you provide. I think that is the right way to go.

That does sound comforting. Thank you very much, Mr. Engelfriet!

This interview was conducted in March 2008