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The state of open source: Bruce Perens, Open Source Definition

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Bruce Perens, a longtime leader in the open source movement, is rarely remiss in speaking his mind on open source matters. Here's how Perens breaks down the key opportunities and challenges for open source in the years to come.

What do you see as the most pressing challenges and opportunities for open source given the current tech climate?

The biggest problem facing open source, and software in general, is software patenting. Copyright is sufficient to protect the proprietary software folks, but they are threatened by software patents, too, as you can see from all of the court cases reported about them. As the situation exists today, it's very easy to get a software patent for something that isn't really an invention at all. What happens to the companies that have to defend themselves from an unjustly granted software patent? It can easily cost them US$7 million in legal fees to win -- that figure is from the American Intellectual Property Law Association's Economic Survey. That's bigger than the entire funding of most startups and many ongoing concerns. So winning isn't economically viable for them, and their only real choice is to settle for whatever the plaintiff wants, whether there is any justice to that or not.

It is not possible today for a nontrivial program to be noninfringing on software patents granted in the US.

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