

Legal Aspects of Distribution Development

Concepts, Cases, Chaos (some Fun, no FUD)

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Overview

- Patents, Trademarks, Copyright & Licenses
- “Fun” with Licenses

- Novell & openSUSE Policy
- Legal Review @ SUSE

- Near Future



Intellectual property - in a nutshell

- Intellectual Property, a "Seductive Mirage" - - Stallman
- Patent
 - - new, useful, and non-obvious invention
- Copyright
 - - not ideas, but the expression of ideas
- Trade Secret
 - - information not generally known that is subject to reasonable confidentiality measure
- Trademark
 - - words or symbols that identify and distinguish goods or services



Intellectual property - in a nutshell ...

Patent, Copyright, Trade Secret, Trademark

- Each is relevant to creating and marketing software
- The basic right - - to prevent use by others
- Remedies - - damages and injunctions



Intellectual property - in a nutshell

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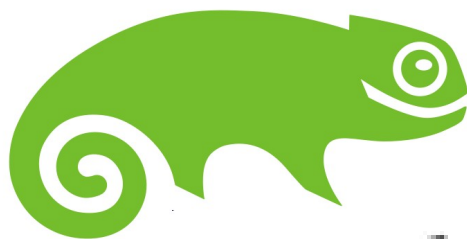
- Each is relevant to creating and marketing software
- The basic right - - to prevent use by others
- Remedies - - damages and injunctions
(Legal actions – compensations and cease-and-desist)
(Klagearten -- Schadensersatz und Unterlassungsklage)

**Beware: Lawyers have their legal-speak,
just as we have our tech-speak.**



Trademarks

Examples found in open source software:



openSUSE



YAHOO!



- Fair use? If in doubt use google, or remove.

Trademarks ...



MrClean is a trademark of Proctor&Gamble



Pikachu is a trademark of Nintendo, and probably copyrighted artwork too.

- A trademark gets diluted, if not properly defended
Thus <http://opensuse-community.org> uses a blue theme and has no official opensuse logo
- Talk to us, if you want to use SUSE or Novell marks!



Licenses



Licenses

```
/*  
 * Copyright (c) 2009 jw@suse.de, Novell Inc.  
 * All rights reserved.  
 */
```

-- What does this tell us? -- Not enough.

- Copyright law defaults to non-free (even if published)
- Copyright owner needs to declare what is allowed / required / excluded, etc. He can
 - disclaim his copyright - 'release into public domain'
 - draft a license language (or pay a lawyer to do so)
 - adopt an existing language.



Licenses – Public Domain

- Simple concept, but local law makes it complex
- Example that might work for a German author:

Copyright (c) 2009 Juergen Weigert. All rights reserved.

I, (Juergen Weigert) the creator of this work, hereby release this work into the public domain.

This applies worldwide. In case this is not legally possible, I grant any entity the right to use this work for any purpose, without any conditions, unless such conditions are required by law.

- This effectively means: 'No rights reserved'



Licenses – Draft Your Own?

- Don't do it.
- You'll get something wrong, even if you are a lawyer.
- Edit an existing licenses? Don't do it. (Same reason)

- Choose from the existing pool.
(FSF, OSI, CC, ...)

- We deal with ca. 500 licenses already;
derived from ca. 50 original licenses.



Licenses – Existing Examples

from <http://people.freebsd.org/~phk/>

```
/*
 * -----
 * "THE BEER-WARE LICENSE" (Revision 42):
 * <phk@FreeBSD.ORG> wrote this file. As long as you retain this notice you
 * can do whatever you want with this stuff. If we meet some day, and you think
 * this stuff is worth it, you can buy me a beer in return Poul-Henning Kamp
 * -----
 */
```

Is this a good license?

Does this include an obligation to buy beer?

Well, at least it is dubbed a valid license by the FSF



Licenses – Existing Examples ...

from <http://sam.zoy.org/wtfpl/> used with libcacaca

DO WHAT THE FUCK YOU WANT TO PUBLIC LICENSE
Version 2, December 2004



Copyright (C) 2004 Sam Hocevar 14 rue de Plaisance, 75014 Paris, France
Everyone is permitted to copy and distribute verbatim or modified copies of this license document, and changing it is allowed as long as the name is changed.

DO WHAT THE FUCK YOU WANT TO PUBLIC LICENSE
TERMS AND CONDITIONS FOR COPYING, DISTRIBUTION AND
MODIFICATION

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

```
/* This program is free software. It comes without any warranty, to
 * the extent permitted by applicable law. You can redistribute it
 * and/or modify it under the terms of the Do What The Fuck You Want
 * To Public License, Version 2, as published by Sam Hocevar. See
 * http://sam.zoy.org/wtfpl/ for more details. */
```



Licenses – Reuse Existing Ones

- choose wisely
 - does it express what you want?
 - consult with others (co-workers, employer)
 - is it compatible with your third party components?
- pay attention to innocent details
(e.g. “or any later version”, BSD4-Clause)
- Novell Legal generally favors GPLv2 or GPLv3;
also BSD or MIT under certain conditions.
- Copyleft aka Share-Alike



License Compatibility

How do the licenses of multiple packages/files interact?

- multiple licenses in 'mere aggregation' are okay
- multiple licenses of linked components may conflict
 - Check clause by clause
 - Build license compatibility matrix
 - Dual license models can heal this
- A dual (or triple) license allows downstream to choose
- License mix? -> obey them all !
- We almost always have multiple licenses in a package



License compliance

e.g. GPL asks to:

- include a fulltext copy of the GPL
- provide exact source
- attach license notices
- declare modifications
- do not add any further restrictions
- Once “free”, always “free”
- ... and more



Novell Policy

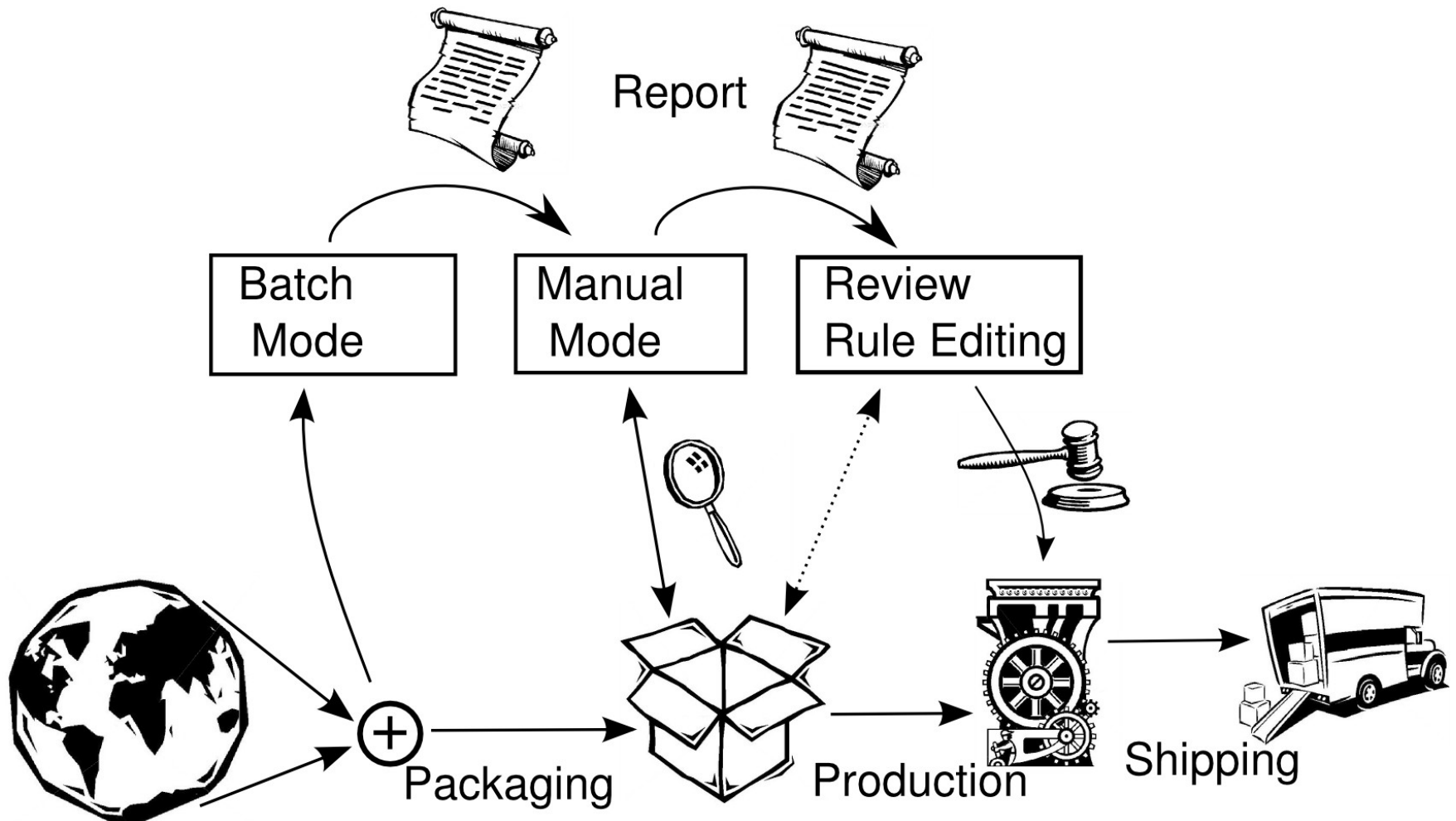
- Developers need to check third party materials for
 - confidentiality notices
 - restrictive notices or license terms
 - patent markings
- Need to document third party materials
- Obtain approval 'if needed'
 - Manager approval and Legal approval
 - Outbound and Inbound
- SUSE Legal team handles SUSE related issues



OpenSUSE Policy

- OSI-approved licenses are accepted per default
 - exceptions apply on a case by case review
- We do **not** review the entire build service contents
 - but we review/act upon notice
- Submit requests to Factory
 - need approval from the OpenSUSE review board (both technical and legal review)

Legal Review at SUSE





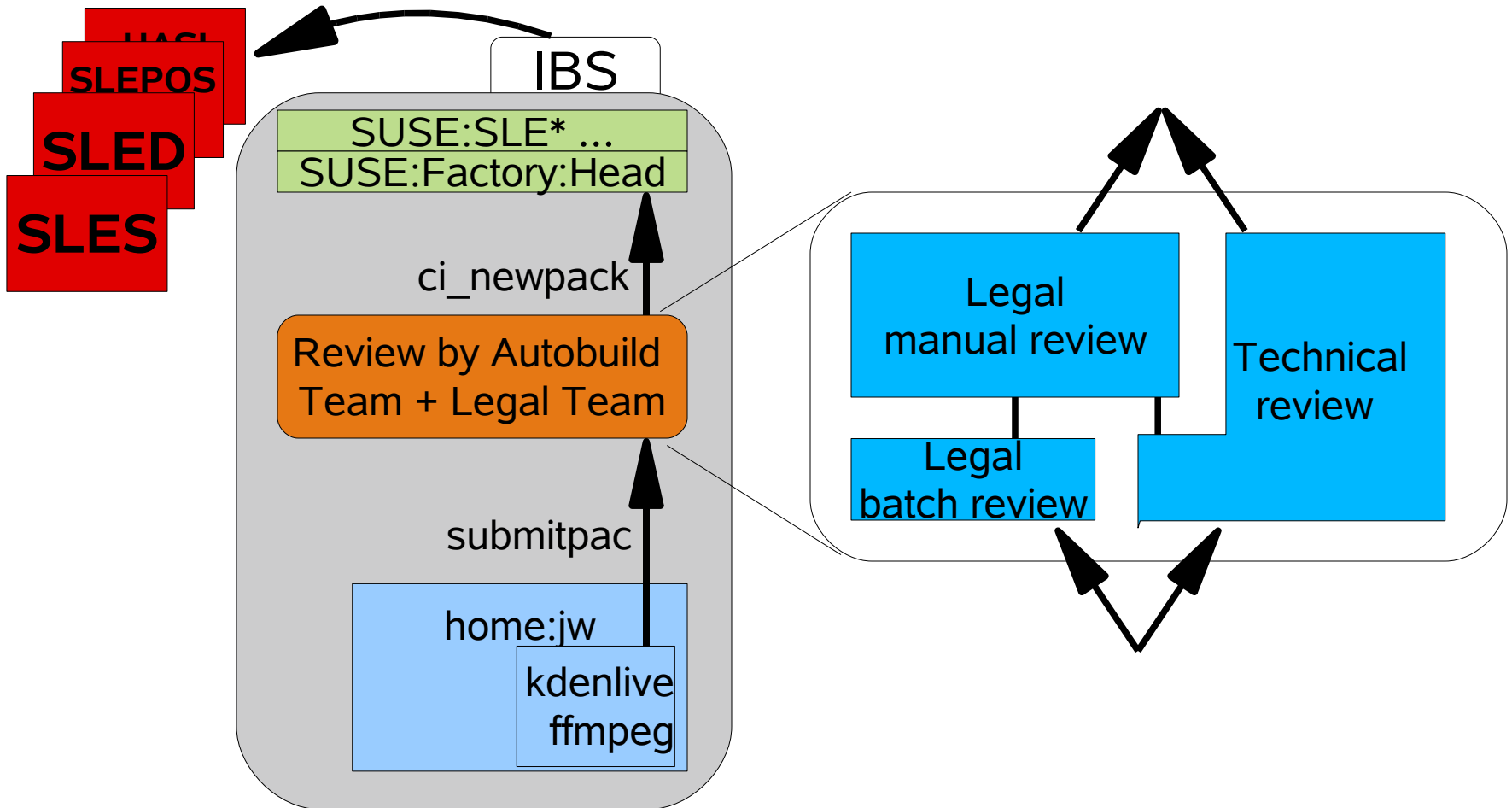
Legal Review at SUSE ...

We review in multiple steps

- at package check-in time (fully automated)
(creates bill of materials, exposes potential issues)
- during build (after technical approval)
(manual package level review, check for completeness, creates reports)
- at shipment time
(product level report, resolution of outstanding issues, documentation, export application)

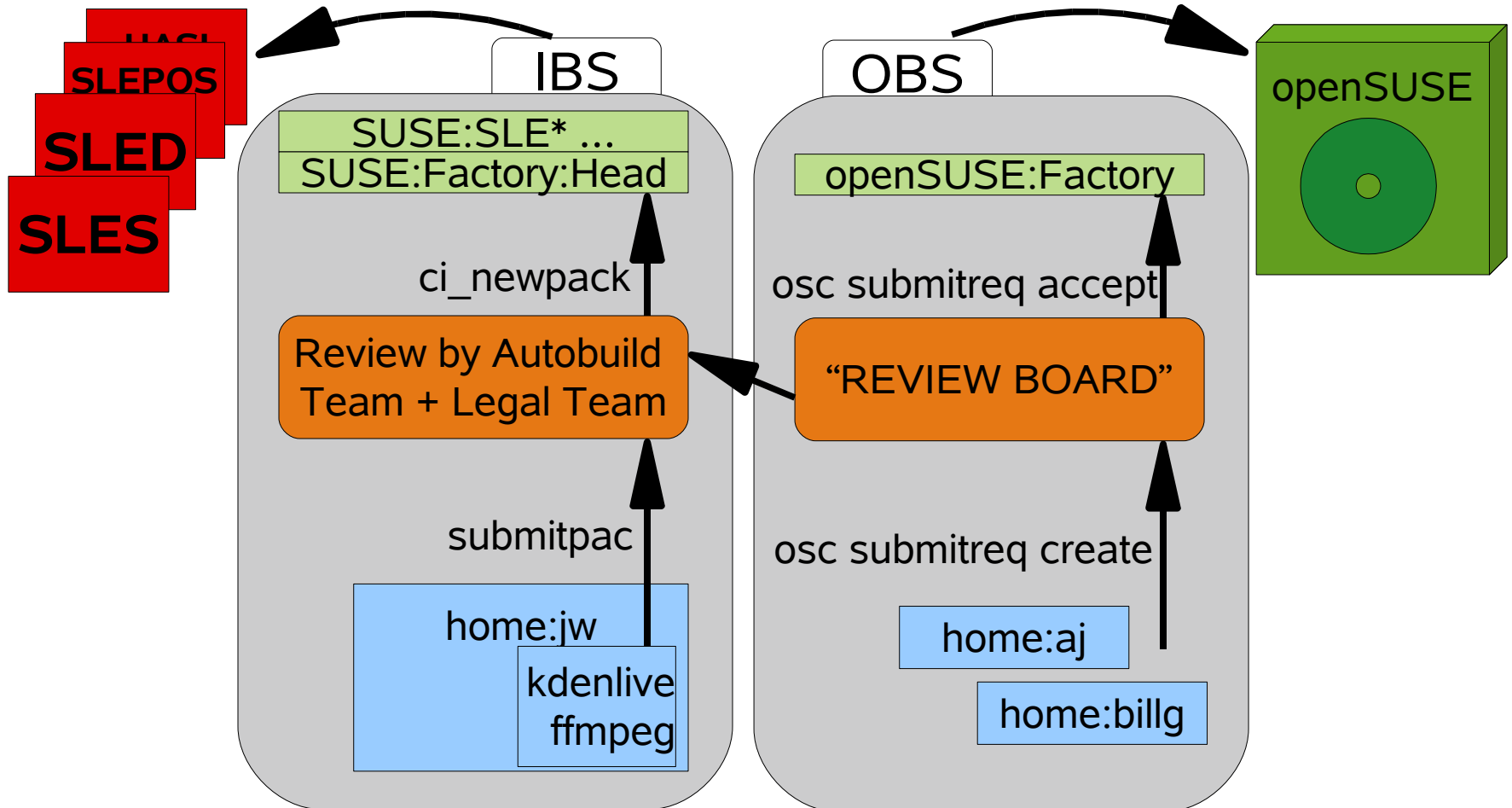


Legal Review at SUSE





Legal Review at SUSE





Artefacts of our Legal Review

- (We used to ship crippled software. No more!)
- Separation in OSS / non-OSS
 - The products have no binary only code
- We resolve legal issues with upstream
 - via bugzilla, email
 - This is where everybody please help!
- We discuss alternatives
 - Again your help may be needed
- We escalate to management and Novell corporate legal



Near Future

- Gain visibility
- Share some review infrastructure asap
 - Now I need to apply for outbound approval
- Get in contact with other review projects
 - Define aspects we should share



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First step taken today,
Thank you for listening!



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