Introducing: The Game Jam License

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ABSTRACT

Since their inception at the Indie Game Jam[1] in 2002, a significant part of game jams has been knowledge sharing and showcasing ideas and work to peers. While various licensing mechanisms have been used for game jams throughout the years, there has never been a licence uniquely designed for artifacts created during a game jam. In this paper, we present to the community the Game Jam License (GJL) which is designed to facilitate that sharing and knowledge transfer, while making sure the original creators retain commercial rights. The Global Game Jam[2], since 2009, strives to formalise sharing in a similar manner, by having jammers upload and license their creations under Creative Commons[3] Non Commercial Share Alike 3.0 free license. However, the CC family of licenses is not well suited for software. CC is not compatible with most other licenses, and introduces a legal grey area with the division between commercial and non-commercial use. Moreover, open source licences like GPL are well suited for source code, but not for art and design content. Instead the GJL presented in this paper, aims to uphold the original ideas of game jams (sharing and knowledge transfer), while still allowing the original team to hold on to all rights to their creation, without any of the deficiencies of the CC family of licenses.

CCS CONCEPTS

• **Human-centered computing** → **Collaborative content creation**; • **Applied computing** → *Law*; • **Software and its engineering** → *Open source model*.

KEYWORDS

game jams, licenses, open source, creative commons, global game jam, copyright, sharing, law

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[1]see: http://indiegamejam.com/igj0/index.html
[2]see: https://globalgamejam.org
[3]see: https://creativecommons.org

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1 INTRODUCTION

On-site game jams have been about sharing since their inception at the very first Indie Game Jam (2002), where game designers shared ideas and showed off their creations to each other while gathered in a central place. The Nordic Game Jam[4] built further on this idea, and in the early years instructed jammers to upload and share source code and assets from their jam creation. The Global Game Jam has formalized this process by requiring jammers to upload a Creative Commons (CC) Non Commercial Share Alike 3.0 free license [2] along with their jam creations, consisting of executable, source code and assets. With this version of the CC licence, the original creators of the game retain all commercial rights, while those who download the game from globalgamejam.org can share and change the game, as long as they do not benefit commercially and remember to credit the original creators.

While game jams are still a relatively new phenomenon, the rapid increase in size and scope of these events gives rise to new legal questions in need for more formalization. Over 47,000 participants created 9000 games during Global Game Jam 2019 alone[10]. Some interesting legal questions unique to game jams include the following:

- Can I share my game and still own it?
- Does participating in a game jam mean I can't commercialize my submissions?
- Can I bundle source and assets that I do not own into my game submission?
- Can I use closed-source commercial tools to build my game without compromising ownership of it?
- Am I free to download and modify previous game jam submissions?
- Can a single license cover source code, assets and art?

Existing practices such as using the CC license used by Global Game Jam have never been considered a good fit for source code. Moreover, open source licences are considered good fits for source code, but not for other content. We examined other choices, but

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[4]see https://www.nordicgamejam.com

no other license makes an effort to capture the interdisciplinary cooperative nature of game jams. Therefore, we investigate establishing a new licence that serves the global jamming community and addresses more of the relevant legal issues. Even this option has severe challenges: it must have fairly broad adoption to be useful.

2 PREVIOUS WORK

As stated by [20] certain products, such as video games, which have a strong software component but also integrate and create artistic works with an original element, in the meaning of the Directive 2001/29/EC (InfoSoc Directive)[16] and as interpreted by the Court of Justice of the European Union (CJEU)[21] could pose problems with the respect to the applicable law. Therefore, it was asked if video games should be considered solely under Directive 2009/24/EC (Software Directive)[17], due to the originality of the underlying source code or should they be considered as hybrid works under the InfoSoc Directive due to their original nature including artistic expressions and narratives. The CJEU stated in Nintendo vs PC Box [18], that video games fall within the scope of application of the InfoSoc Directive because they

> constitute complex matter comprising not only a computer program but also graphic and sound elements, which, although encrypted in computer language, have a unique creative value which cannot be reduced to that encryption. In so far as the parts of a video game, in this case, the graphic and sound elements, are part of its originality, they are protected, together with the entire work, by copyright in the context of the system established by Directive 2001/29.

Keeping this in mind, it became apparent, that there is no license publicly available, which addresses the hybrid factor of video games in satisfactory way.

GJL is a license that is idealistic in nature, as it is essentially an attempt at reformulating the sharing spirit of the Global Game Jam into legal language. However, GJL is not the first attempt at doing such a thing. Richard Stallman famously created the Gnu General Public License (GPL) in 1989 to ensure that "the users have the freedom to run, copy, distribute, study, change and improve the software" [19]. The GPL license itself is predated by the GNU Manifesto [14], which is a call for developers to join Stallman in creating free[5] UNIX compatible software.

The spirit of the GPL license, where free is to be understood as "freedom" not "price", is also one of the primary motivators of the GJL, but we have a modern twist: Anyone can download, learn from and change the Standard version, but only the original creators are allowed to profit from the creation of the game and distribute subsequent closed versions. GJL still restricts the user's freedom in some ways. As Stallman argues, as he does in [23], that most open source licenses are not truly free, we believe his arguments would also apply to GJL.

The CC family of licenses [9] solve a similar problem, however as the CC FAQ [8] mentions, the license is not recommended to use for source code as it is incompatible with other licenses and does not deal with issues such as software patents. These patent apply

to source code, but not to most other content e.g. images, sound, assets and models. Specifically, the CC FAQ page states:

> We recommend against using Creative Commons licenses for software. Instead, we strongly encourage you to use one of the very good software licenses which are already available [8].

As is evident from the increased proliferation of online source code repositories such as Github[11], GitLab [13] and BitBucket [4], the use of open source software is becoming ever more widespread. According to [12], Github reached 30 million developers in July 2018, and it hosts more than a staggering 2,800,000,000 lines of code by December 2018.

In [22], Guevara-Villalobos suggests that we are "witnessing the configuration of communities of production as a means by which developers seek to regain creative control over of their own labour". Indie game developers form communities where they share ideas, learnings and resources. Game jams, such as the Global Game Jam, play an essential role as these creative spaces.

2.1 Commercial vs Non-Commercial

In order to provide jammers with some kind of legal framework, GGJ chose the CC, as it is a license that provides an explicit distinction between commercial and non-commercial use. Leaving aside the concerns about CC compatibility with software, this distinction seems useful for the actual artifact created during the jam. However CC is still inadequate in addressing one of the biggest concerns among game jammers: Are jammers allowed to monetize their projects after the jam is concluded? Unfortunately the answer to this question cannot be a simple "yes" or "no" as there are many aspects to be taken into (legal) consideration, e.g. is it considered "commercial" if a charity or non-profits sells the game jam package, or the package is used to get a grant or win a competition? Or what if a modified version is worked on for money or in-kind compensation? What if the package is given away free as part of marketing campaign meant to promote a different product? The answer of "it depends" seems to be the most accurate one for this non-exhaustive list of example questions that demonstrates the legal distinction between commercial and non-commercial, but it is not a clear one.

2.2 Patents

The ability to patent software has caused a great discussion among software developers, lawyers and industry representatives. The legal framework differs globally. For example while the ability to patent software exists in the USA, it does not in Europe. Yet, many software licenses deal with patents to cover the issue. The CC is not among those licences as it does not address patents at all. Even though, Source code does seem unique in this context when compared to the rest of the content in the game jam package, and even though the package can be covered by copyright, the source code itself could be used for patent-able inventions and jammers should be aware of this fact.

2.3 The Incompatibility Issue

It is evident, that except for the CC0 Public Domain Dedication license [6], and the CC Attribution-ShareAlike (BY-SA) version

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[5]Free is here meant in the famous quote [19] of "To understand the concept, one should think of *free* as in *free speech*, not as in *free beer*."

4.0 [3] which is one-way compatible with the GPL license [19], the CC licenses are not compatible with other open source licenses. Thus, the ability to link game jam content with content covered by such open source licences is limited and is considered as an unnecessary barrier by game jam organizers.

3 SOLUTIONS

Having discovered many problems and potential legal incompatibilities with existing practices, the authors resolve to come up with a solution. Three options are considered: splitting the package, using an existing license and developing a new license.

3.1 Splitting the Package

It can be argued that instead of creating a new licence, one solution is simply to split the game jam package into 2 packages: one package consisting solely of the source code and another package for the rest (mainly content). The latter will be licensed under the CC license, and the source code, under a more standard open source license that adheres to the main ideas of sharing while still crediting the original authors. Examples are the MIT [15] or Artistic [1] license. Instead of uploading one compressed file, jammers would simply upload two files, each falling under a different license.

In theory, this idea works well, but in practice, the two packages always belong together, and one does not work without the other, so it becomes difficult to keep things conceptually separate.

Additionally, not all game making tools allow the jammer to separate code and content to this degree. In fact, for most game developers it makes more sense to consider code as content. For example, is a blueprint made in Unreal Engine, code or content? How does one pull out such a blueprint and make it easily mergeable? What about a Unity prefab? Other tools, like Game Maker also make it difficult to separate the code.
We conclude that while separating code and content into different packages might work for the traditional game developer using c++ or similar, for many modern game developers using game engines, separating the packages out can be impractical, confusing and burdensome.

3.2 Using another License

Instead of creating a new license, we first need to check if an already existing license can work as a substitute. We seek a license that:

- covers patents
- is compatible with other major licenses
- does not require the creators of the package to sign away any rights to the software, commercial or otherwise
- makes sure sharing is permitted and encouraged, by allowing anyone to download the standard version and learn from its contents

The Creative Commons Share-Alike 3.0 [2] has served the Global Game Jam well so far. However, as described in section 1 and 2, the current license does not address the patent issue, and it is generally not recommended for software. The GPL license [19] is great for sharing, but it does not allow for keeping a closed version of the code, unless the authors take great care in applying a license after

they have forked the Standard Version, and makes it difficult to apply the later changes to different forks of the Game Jam Package. On the other hand, licenses such as the BSD [5] and MIT [15] are too unrestricted, as they allow a user of the game jam package to make a modified version and sell it for profit, while not requiring that user to disclose and share the changes with the public. In general, most licenses other than CC, can be divided into those that are Copyleft [7] and those that are not. A Copyleft license such as the GPL, require later versions of licensed code to be licensed under similar term or stricter terms. The MIT and BSD licenses are not Copyleft.

3.3 Developing a New License

A new license is clearly required that fulfills the unique needs of the game jam movement. However, if this new license is to be successful and widely adopted, it should have a clear governing authority. Such an authority is not strictly necessary for licenses as the text of the license should be self explanatory, but in practice, new challenges, technological innovations and legal landscapes could necessitate changes to future versions of this license. Therefore, we strongly suggest an independent governing authority, made up of interested game jam community leaders, be convened to oversee the development and distribution of this license, and be the custodian of its documentation. Our license version 0.1 is reproduced in Appendix A.

4 CONCLUSION AND FUTURE WORK

In this paper we examine the issues of content and software licensing as related to game jam activities. The license presented here, is meant to be a conversation starter. New licenses are rare and require years of promotion for wide adoption. In general the consensus among the authors is that we must not create a brand new license ("yet another license") unless uniquely and specifically called for.

The authors believe the case can be made for a new license. We invite the community to contact us for feedback and suggestions. Our proposal and first version is available in Appendix A.

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