



Software Freedom
Law Center

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Software Freedom Law Center Request to be heard in Case COMP/M.5529 Oracle/Sun

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Mr. Michael Albers
Hearing Officer
European Commission J 79.5/230
B-1049 Brussels
Belgium

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Dear Mr. Albers,

By this letter, the Software Freedom Law Center (“SFLC”), an independent non-profit center for the development of the law of free software,¹ respectfully requests to be heard as an independent third party at the European Commission’s hearing in Case COMP/M.5529 *Oracle/Sun*.

SFLC’s goal is to contribute to a legal environment that fosters free and open source software (“FOSS”) development, use and distribution through legal representation and related services. In particular, SFLC is deeply involved in drafting and advising on the GNU General Public License (“GPL”)²—the FOSS license under which MySQL is released.

SFLC has no view on the accuracy of the Commission’s market definition in this matter, nor on any alleged horizontal overlap between Oracle’s proprietary databases and the open source MySQL database program. But SFLC is concerned that, in the present matter, the Commission might adopt a Decision in which it underestimates the role that the GPL plays in addressing the Commission’s stated concern: protecting against any possible anti-competitive effects that might—were it not for the GPL—arise from sole Oracle control over MySQL’s source code. GPL was designed specifically to protect the freedom of free software (which means everyone’s right to copy, modify and redistribute the software) regardless of changes in the ownership of the copyrights in the software, or changes in the owners’ commercial motivations. If GPL could not sufficiently deal with the situation about which the Commission is concerned, it could not have carried out its fundamental design objectives for the last eighteen years.

Given the central role of MySQL’s GPL license in this matter and given SFLC’s expertise on the GPL, SFLC believes it could meaningfully contribute to the Commission’s inquiry.

In light of the above, we respectfully request an opportunity to be heard as an independent third party for 45 minutes in order to address the role of the GPL in this merger.

Very truly yours,

Eben Moglen
President & Executive Director

¹SFLC is funded by a variety of contributions from different sources, including Oracle and Mr. Michael Widenius.

²See <http://www.softwarefreedom.org/services/>