## **Open Source Best Practices and Recent Developments**

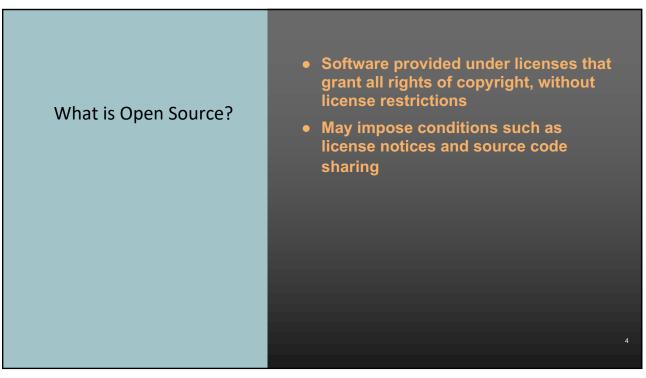
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Introduction
<ul> <li>Update on open source enforcement: SFC v. Vizio</li> <li>Best practices for open source compliance         <ul> <li>Containers</li> <li>Program office support</li> <li>Avoiding fire drills</li> </ul> </li> </ul>
<ul> <li>Open source and AI: Co-Pilot litigation</li> <li>Update on open source business developments         <ul> <li>Ethical licensing and AI</li> <li>New stewardship models for open source</li> </ul> </li> </ul>

Why is Open Source Important?	<ul> <li>It is ubiquitous</li> <li>It runs key infrastructure</li> <li>It is eclipsing proprietary software</li> </ul>
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## **Open Source: Risks – SFC v. Vizio**

- October 19, 2021 SFC files claim in California state court for breach of contract and declaratory relief.
- November 29, 2011 Case is removed to federal court by Vizio on grounds the state-law claims are pre-empted by the Copyright Act because "it is well established that exceeding the scope of a license by violating its conditions gives rise to a claim for copyright infringement."
- December 6, 2021 Vizio files motion to dismiss for failure to state a claim: Vizio argues that: (a) state law claims cannot be brought because of federal pre-emption by Copyright Act; (b) only the copyright holder can bring an action for infringement.
- December 27, 2021 SFC files motion to remand back to state court and argues that source code availability is not afforded by the Copyright Act so SFC's claim includes an "extra element" outside scope of federal question.
- April 22, 2022 Vizio files response to SFC's motion to remand, using SFC's pre-trial letters to Vizio and SFC's other GPL enforcement actions, which argue for copyright infringement claims.
- May 13, 2022 Federal Court remands case to start court for breach of contract and declaratory relief claims to proceed.
- September 2023 Jury trial.

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