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## Facebook React is Now Licensed Under the MIT License

For once, clarity has prevailed over obfuscation and turbid murkiness in the world of open source software.

Facebook has launched React 16 under the MIT license, backtracking on its previous licensing of the React open source project under the BSD + Patents license. Facebook's previous licensing for React evoked widespread opposition from members of the tech community amid concerns that patent litigation could be initiated by Facebook against React users, based on the terms of the BSD + Patents license.

### The Background: The Original License - BSD + Patents

React, also referred to as ReactJS, is an open-source JavaScript library licensed by Facebook, which is popularly used to build user interfaces. React had been licensed under a license derived from the popular BSD license, which is commonly used by other open source projects.

The BSD license, unlike the Apache license, does not include an explicit grant of patent rights. The code is freely available, but could also be protected by patents. Without receiving a license to the Facebook patents included in the React code, the user would not be free from a patent suit from Facebook under certain circumstances. Therefore, it arguably restricted the ability to use React or to sell or distribute applications into which React was incorporated.

In 2014, Facebook stated that it was addressing this apparent problem. In order to establish an explicit grant of patent rights to users of the React code and make the commercial use of React simpler, Facebook added a grant of patent rights to the

traditional BSD license. At the same time, however, the BSD + Patents license also allowed Facebook to terminate such patent rights in response to a patent lawsuit filed against Facebook, or its customers, for using Facebook products, resulting in a loss of the user's right to use or distribute products, technology or applications that incorporate Facebook's code. The result was that users needed to consider this potentially significant counteraction if they chose to sue Facebook for patent infringement.

Facebook's licensing policy, under the BSD + Patents license, resulted in a backlash from the tech community, and raised concerns of potential legal exposure resulting from use of React. Even small companies, without patent portfolios or any intent to sue Facebook, were concerned how this would impact their chances to be purchased in an M&A. The negative responses culminated in the Apache Foundation rejecting the BSD + Patents license and banning React from Apache's projects because of the licensing restriction.

### **The New License - MIT**

At the end of September, Facebook changed its licensing policy for React and launched React 16 under the MIT license. MIT is a permissive license, which allows unrestricted duplication, modification, and distribution of the software, as long as the derivatives include the same license.

While the new MIT license does not include the patent licensing restrictions that caused negative responses to the previous version, it should be noted that the MIT license also has no explicit grant of rights to Facebook's patents. The MIT license implies a grant of patent rights, but does not expressly include such grant. A license to Facebook's patents is important to protect against a patent infringement lawsuit from Facebook for distributing React-based code. It is of course preferable to receive an explicit license to patents, rather than an implied license.

### **Conclusions and Recommendations**

Facebook has launched React 16 under the MIT license, instead of the BSD + Patents license, under which previous versions of React were licensed. The BSD + Patents license included terms which created potential legal issues by exposing React users to patent-related counter claims by Facebook and potential revocation of the React license, in the event such users filed a patent infringement claim against Facebook or its users. The new license is a big improvement because it does not include the explicit loss of a patent grant, with the implicit threat of a lawsuit by Facebook.

Importantly, Apache permits MIT-licensed software in its projects, so now developers can once again use React in Apache projects.

Facebook's adoption of the MIT License seems to signal that Facebook has backed away from an outright threat of a patent lawsuit, and this should resolve a major legal concern which caused some of our clients to be deterred from using React. Nevertheless, there still is some uncertainty regarding the rights granted to Facebook's patents. The patent grant provisions were added by Facebook to the BSD license in order to explicitly give rights to Facebook's patents, thus clarifying that users would have permission to commercially exploit React free from the fear of a patent suit. Under this new license, this right is only granted implicitly.

We will continue to monitor this situation to see what happens in practice. However,

the change signifies greater freedom in being able to use React commercially as it eliminates a significant restriction in users' rights to protect their React-based intellectual property. And in particular, it now allows use in Apache projects.

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