"Copyleft"

EOLE 2009
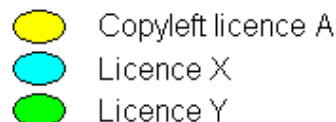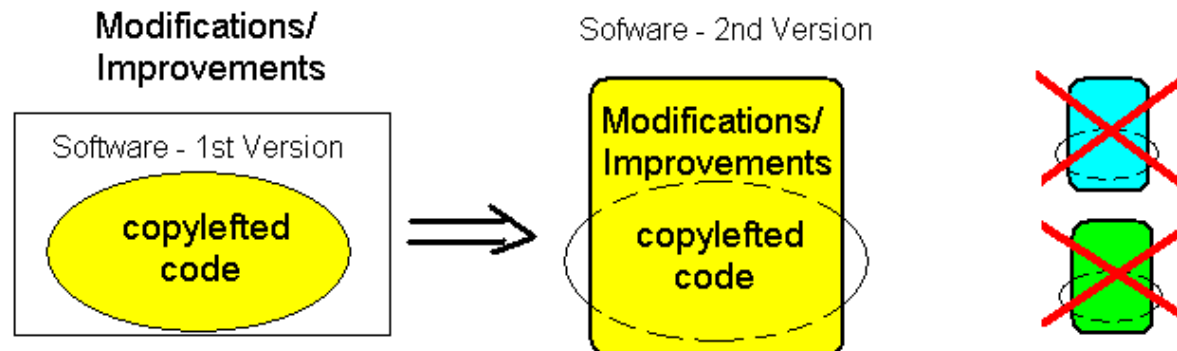## Foss Terminology

EU Parliament, Brussels
9 December 2009

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CENTRE DE RECHERCHES
INFORMATIQUE ET DROIT

C E L L A V I

FACULTÉS UNIVERSITAIRES NOTRE-DAME DE LA PAIX · NAMUR ·

Copyleft… in general

- **Copyleft can be defined as the effect thanks to which FLOSS (Free / Libre / Open Source Software) remains Free / Libre / Open Source.**

- **<u>NB :</u> SOME FLOSS licences are Copyleft / SOME ARE NOT**

- **This copyleft effect is reached by introducing a copyleft clause in the FLOSS licence, which, in general, reads more or less as follows:**

  " You are free to modify or merge the software with another one, but if you redistribute the modified or merged version of the software, this redistribution must be done <u>under the same licence</u>"

Modifications/ Improvements

Sofware - 2nd Version

Software - 1st Version

copylefted code

Modifications/ Improvements

copylefted code

Copyleft licence A
Licence X
Licence Y

First distinction

COPYLEFT   /   NO COPYLEFT

ex: GPL2   BSD

So far so good

…

What about "**strong / weak**" copyleft?

What about "**per file** copyleft"?

What about LGPL?

What about copyleft licences, which finally allow the distribution under *other* licences?

Are there some subclassifications to be made?

Different types of "Copyleft" …classification attempt [1]…

- **"Strong" copyleft = the copyleft effect applies to any kind of "derivative work" Ex. : GPL2**

- **"Weak" copyleft = the copyleft effect is voluntarily limited to some parts of the code**
  Ex. : Mozilla, LGPL

- **No Copyleft = a derivative software may be distributed under another licence (including proprietary licences)**
  Ex. : BSD

Different types of "Copyleft" …classification attempt [2]…

- **"Strong" copyleft**
  - **"Strongest copyleft"** = the copyleft effect applies to any kind of "derivative work" => work "based on the program" + clear will to extend it to "dynamic linkage"
    - **Ex. : GPL2**
  - **"Legal derivative work" copyleft** = the copyleft effect is based on (and limited to) the legal notion of "derivative work"
    - **Ex. : EclipsePL* , IBM's CommonPL**, EUPL*****
- **"Weak" copyleft** = the copyleft effect is voluntarily limited
  - **"Per file basis copyleft"** = the copyleft effect is limited on a "per file" basis   **Ex. : Mozilla, CDDL**
  - **"Per module basis copyleft"** = the copyleft effect is limited on a "per module/library" basis   **Ex.: LGPL**
- **"Source only" copyleft** = allows the distribution of executable versions *under another licence* on the condition that the covered source code remains distributed under the FLOSS licence
  - **Ex. : Mozilla, CDDL, EPL, CPL**
- **No Copyleft** = a derivative software may be distributed under another licence (including proprietary licences)

* NB : EclipsePL

EclipsePL : art.1 (definitions)

"Contributions do **not include additions to the Program which**: (i) are **separate modules** of software distributed in conjunction with the Program under their own license agreement, **and (ii) are not derivative works of the Program.** "

www.eclipse.org => EclipsePL FAQ:

"Some free software communities say that linking to their code automatically means that your program is a derivative work. Is this the position of the Eclipse Foundation?

No, the Eclipse Foundation interprets the term "derivative work" in a way that is consistent with the definition in the U.S. Copyright Act, as applicable to computer software. Therefore, linking to Eclipse code might or might not create a derivative work, depending on all of the other facts and circumstances.

[…]

If you"ve written your own Eclipse plug-in with 100% your own code to implement functionality not currently in Eclipse, then it is not a derivative work."

** NB : CPL

CPL : art.1 (definitions)

"Contributions do **not include additions to the Program which**: (i) are **separate modules** of software distributed in conjunction with the Program under their own license agreement, **and (ii) are not derivative works of the Program.**"

www.IBM.com => CPL FAQ :

If I write a module to add to a Program licensed under the CPL and distribute the object code of the module along with the rest of the Program, must I make the source code to my module available in accordance with the terms of the CPL?

No, as long as the module is not a derivative work of the Program.

EUPL: art.1 (definitions)

- Derivative Works: the works or software that could be created by the Licensee, based upon the Original Work or modifications thereof. This Licence does not define the extent of modification or dependence on the Original Work required in order to classify a work as a Derivative Work; this extent is determined by copyright law applicable in the country mentioned in Article 15.

Conclusion

What about these "EUPL" and "CeCILL" licences?

> **They have copyleft clauses, but allow redistribution, in some cases, under some other licences …**

> > **…"copyleft but compatible licences"…**

What about copyleft in "the cloud"=> different copyleft "triggers"?

> > **…"affero" copyleft…**

> > *******

⇒ **Copyleft is just a "concept" that is implemented differently according to the objectives of the drafters…**

⇒ **Even though classifications help understanding the issues,**

> **what matters is the actual text of the licence.**

Entire software application ("*operational*" code)

"Program"

Library

code

code

Files

code

code

code

code

code

Dynamic Linkage
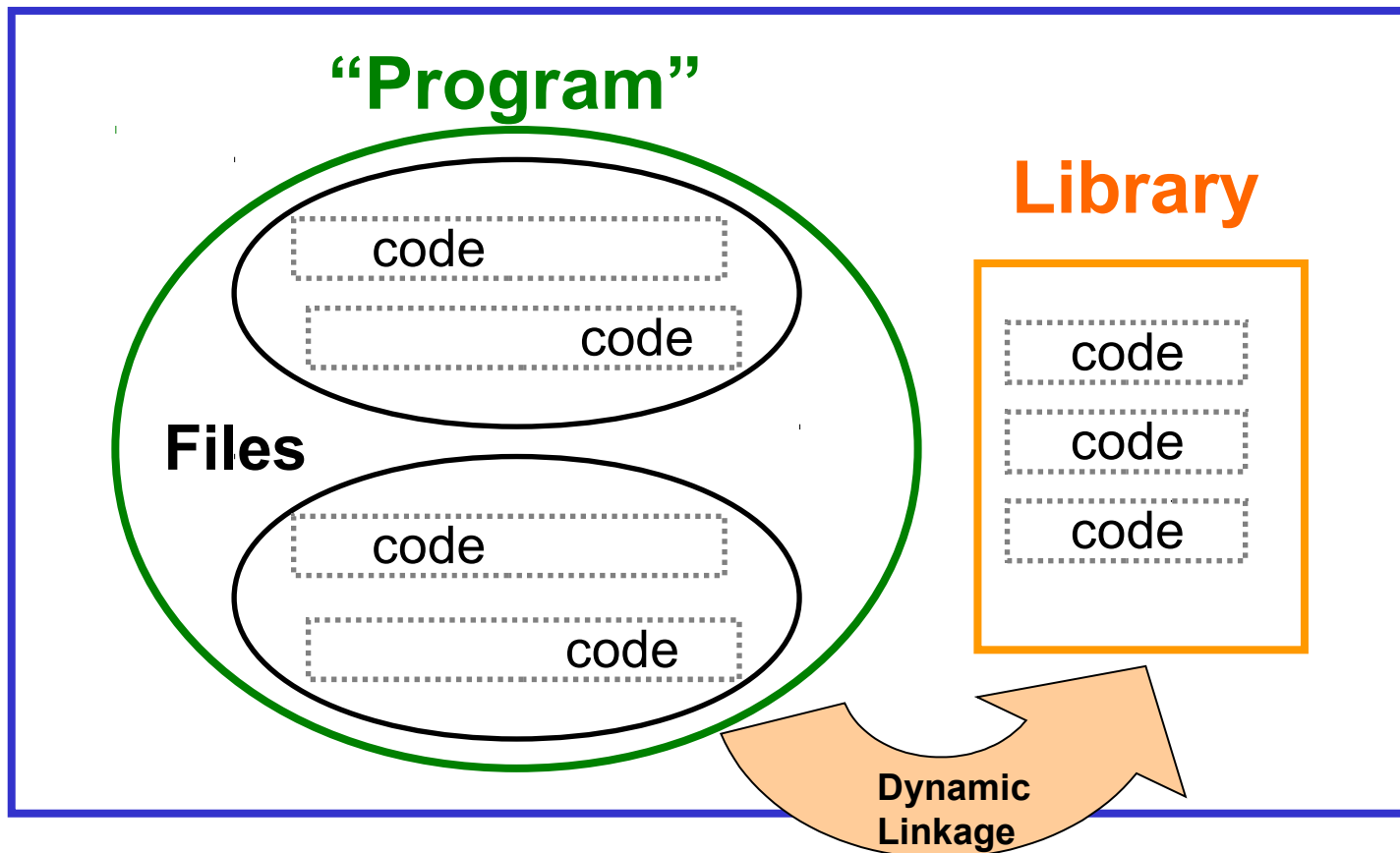
Non-copyleft / Academic APACHE / BSD

BSD - code

APACHE - code

Final licence

Proprietary or other
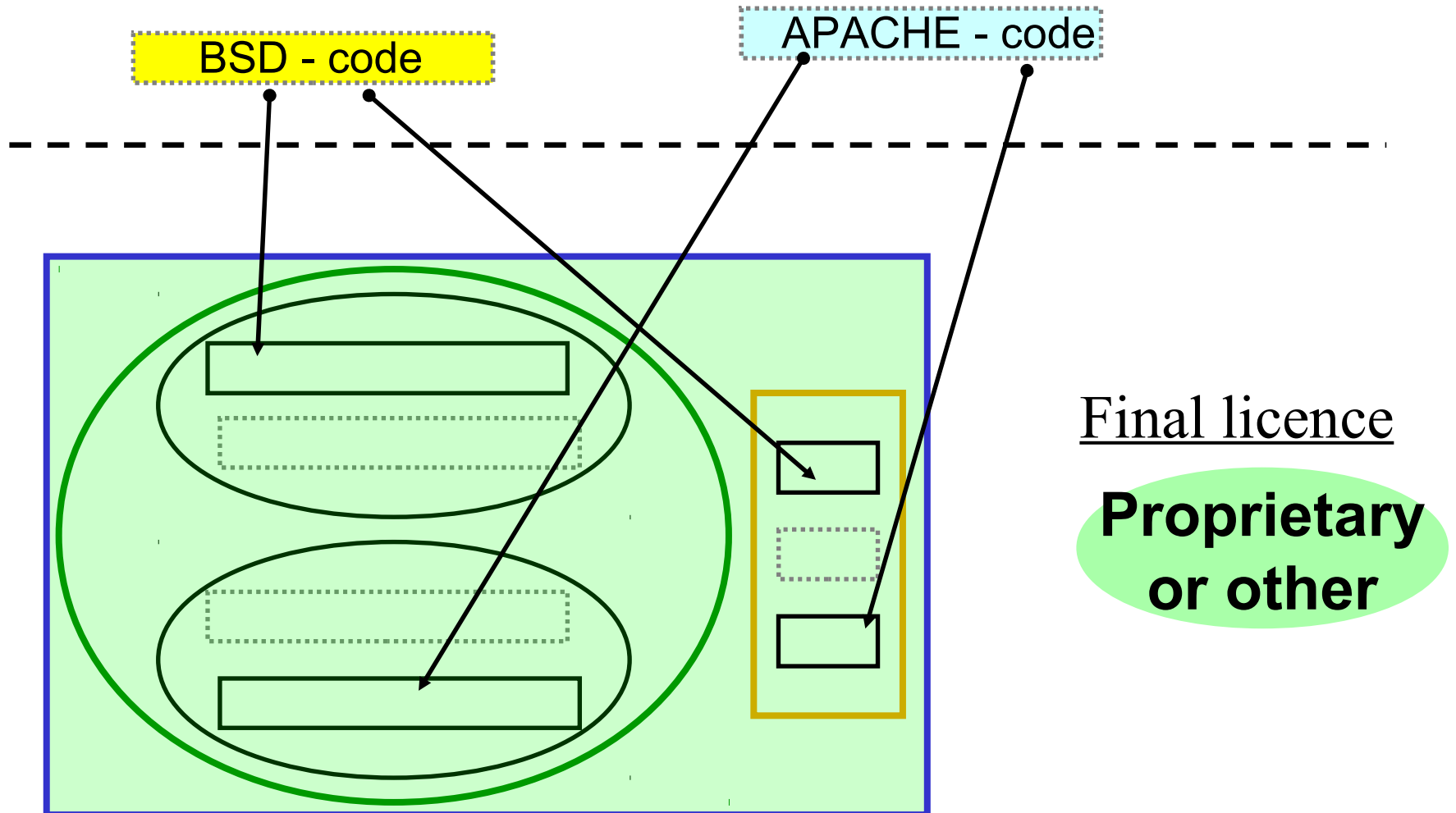
Weak "per module/library Copyleft" LGPL

LGPL-code
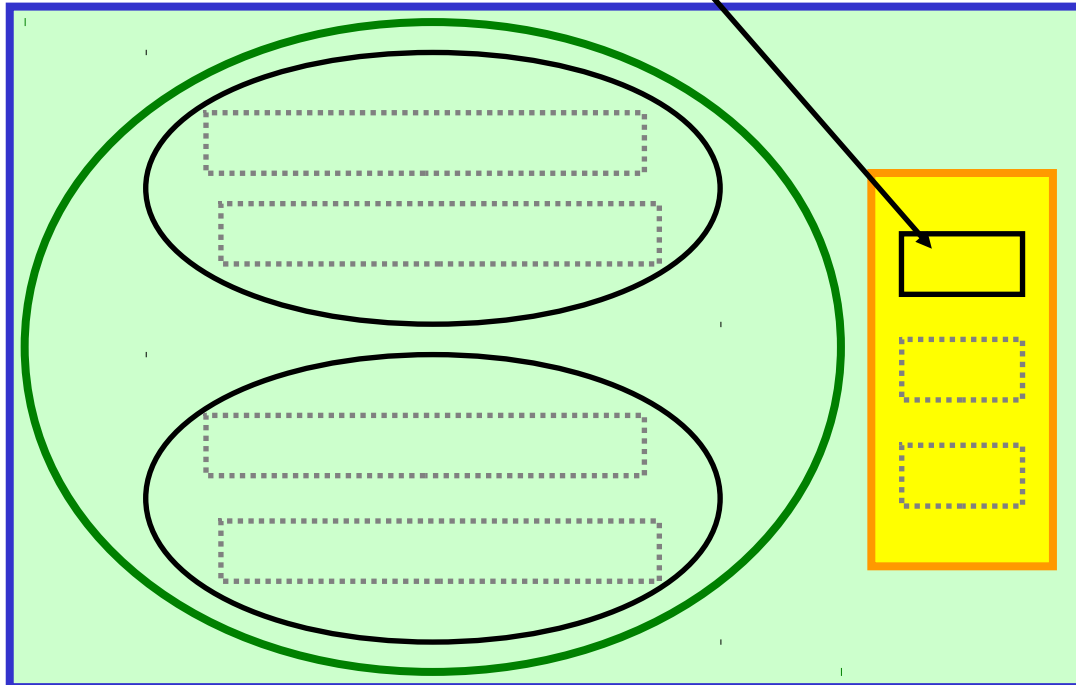
Final licences

Proprietary or other

LGPL
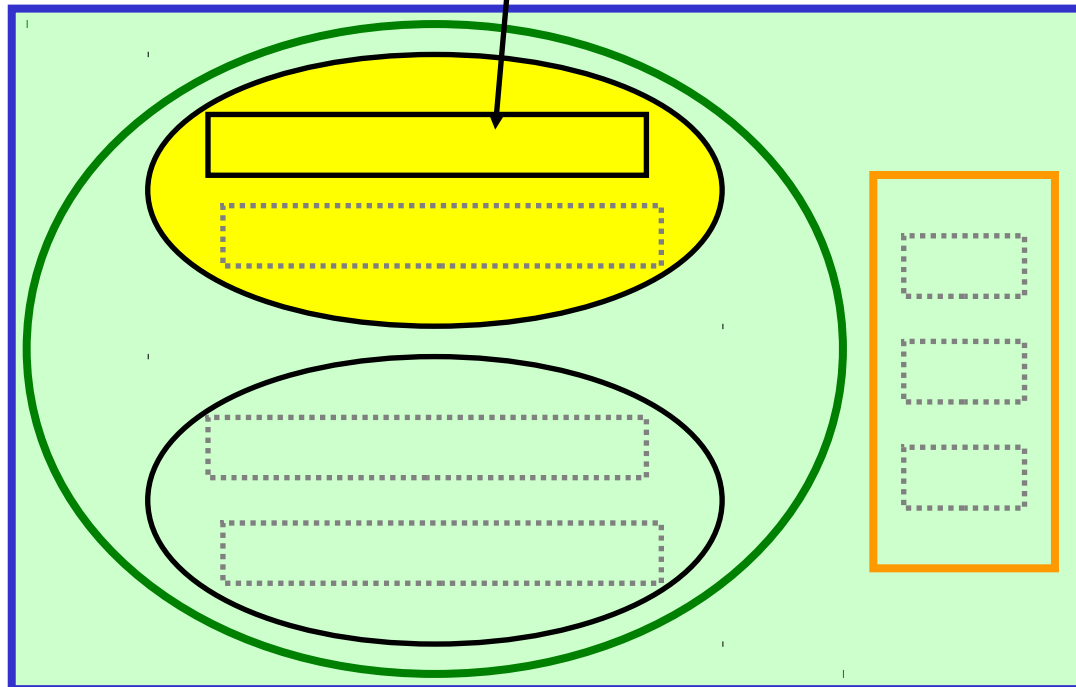
MPL - code

Final licences

Proprietary or other

MPL

"Source only copyleft"

SOURCE CODE
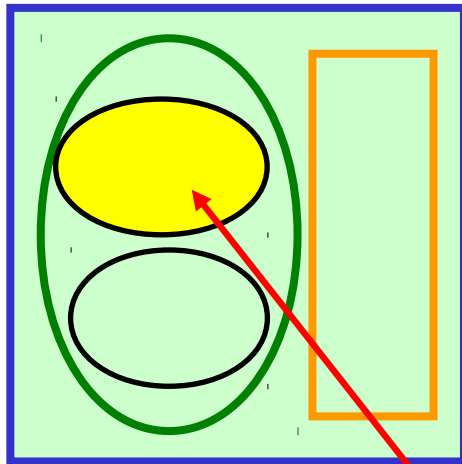
EXECUTABLE

COMPILATION
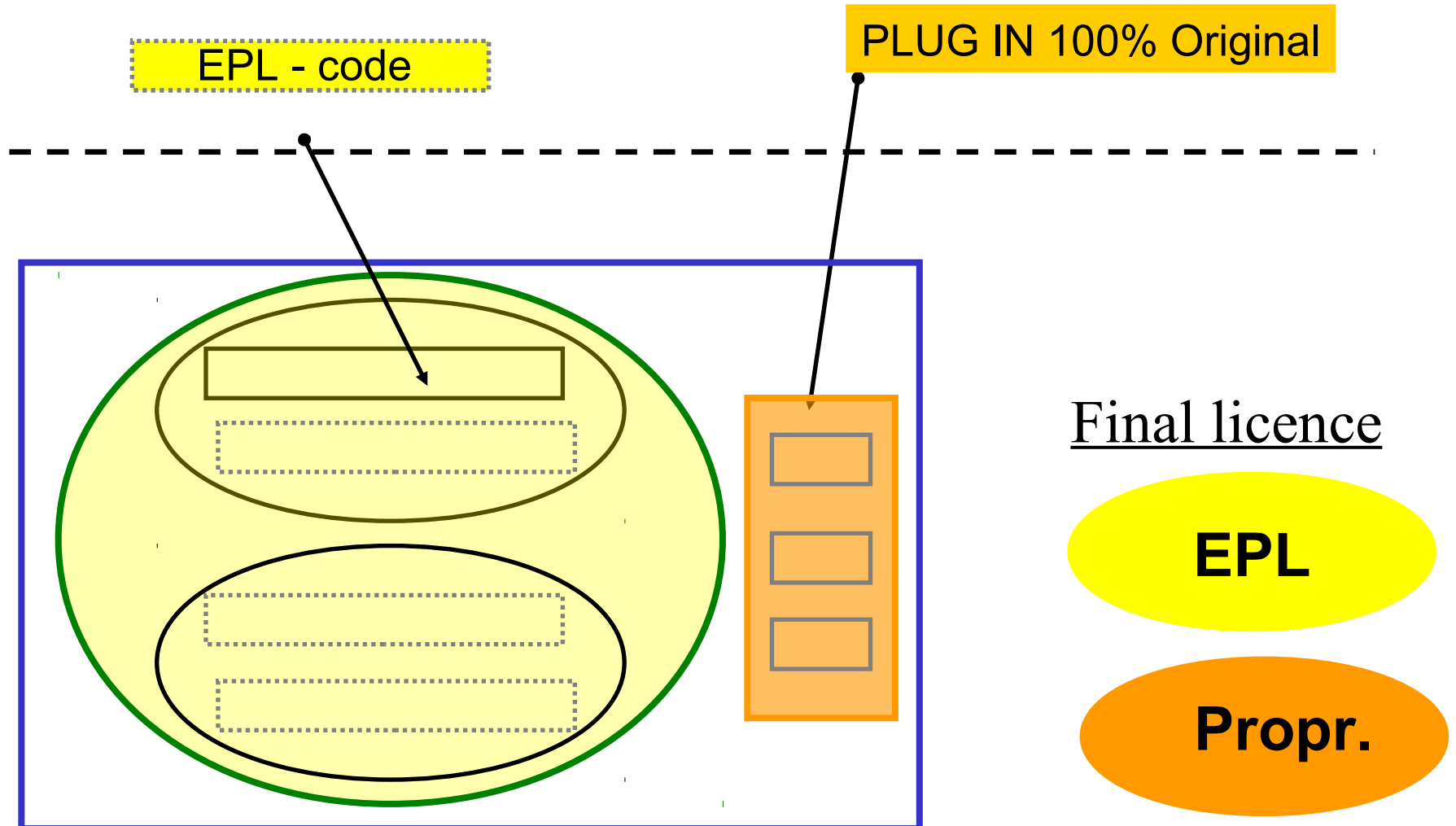
Final licences

Proprietary or other

MPL
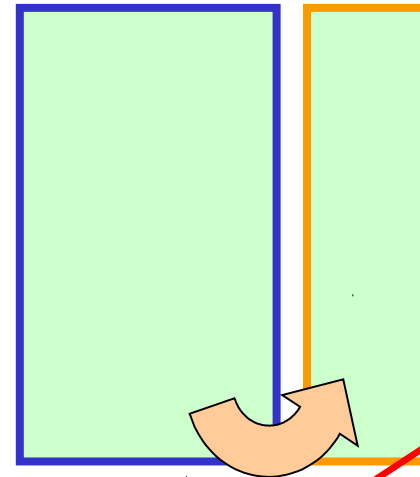
Final licence

Proprietary or other

Source code under MPL must be available and remain under MPL

BUT

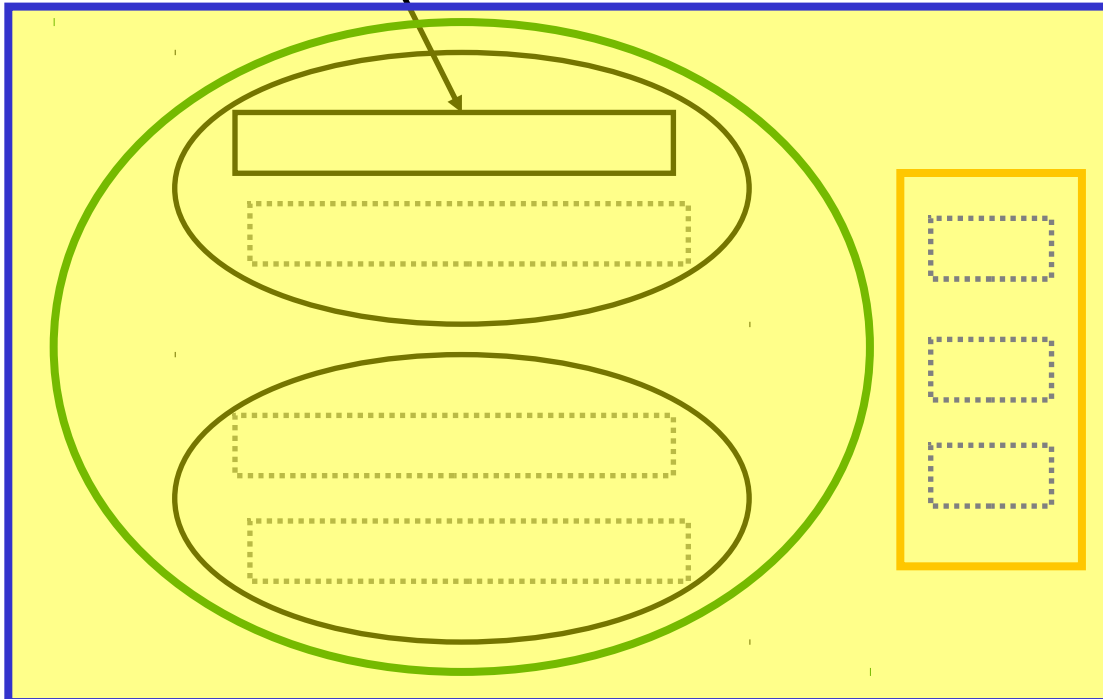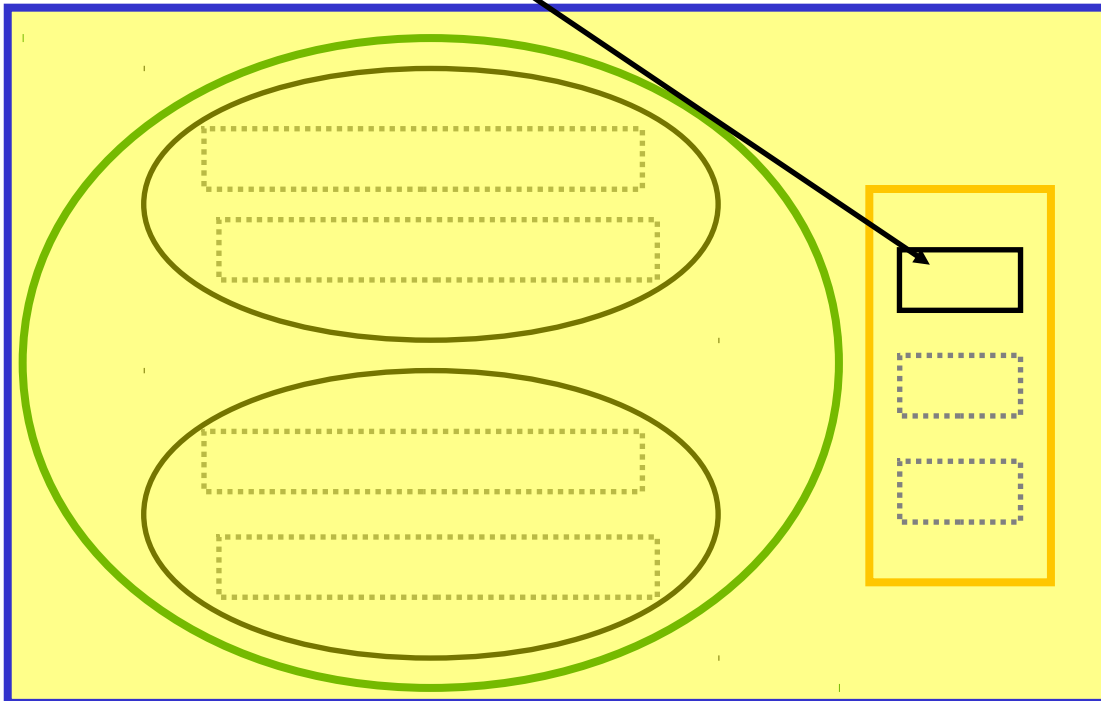# "Legal derivative work copyleft" EPL

EPL - code

PLUG IN 100% Original

Final licence

EPL

Propr.

"Strongest copyleft"
GPL2

GPL2 - code

Final licence

GPL2

Ph. Laurent – Copyleft

GPL2 - code
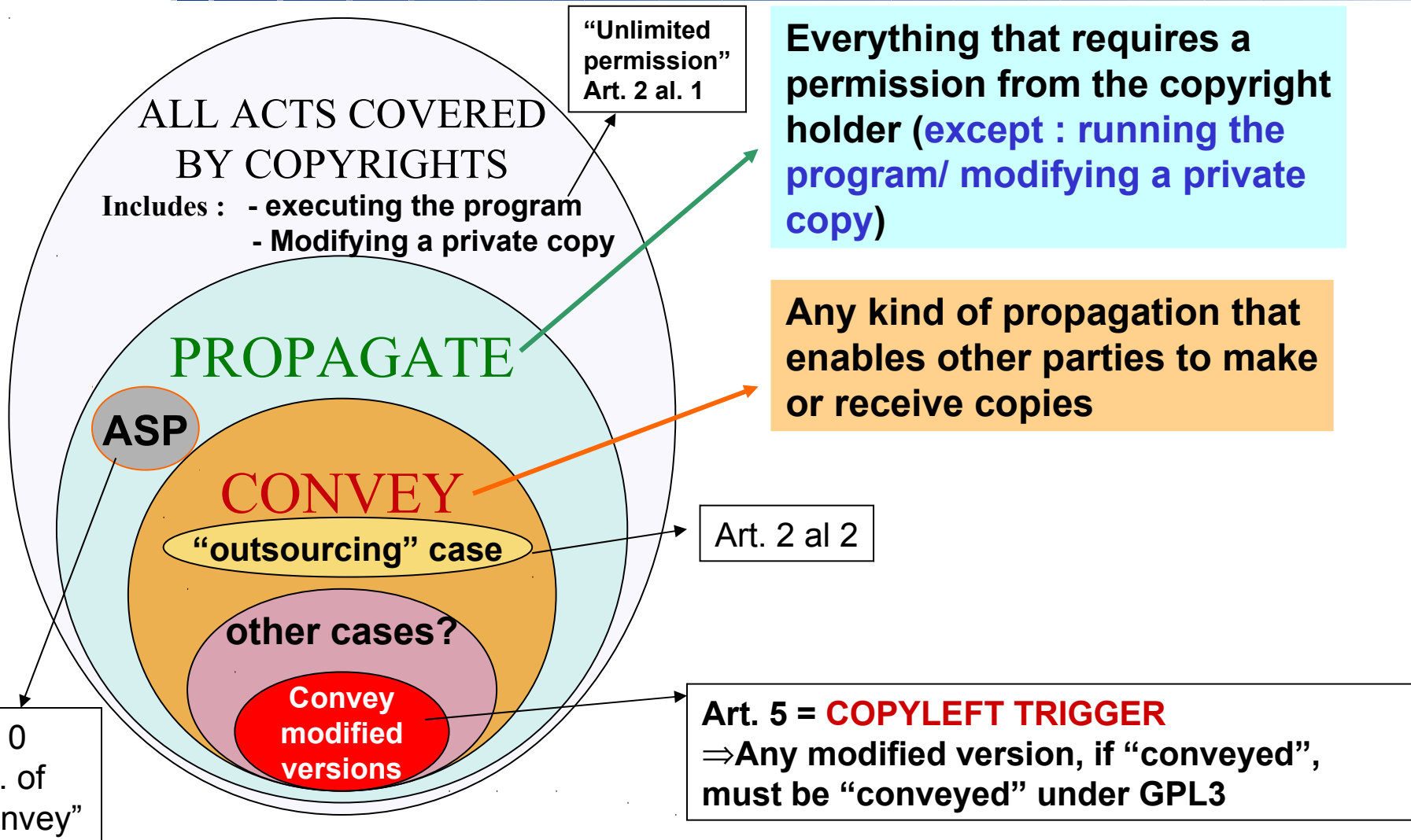
Final licence

GPL2

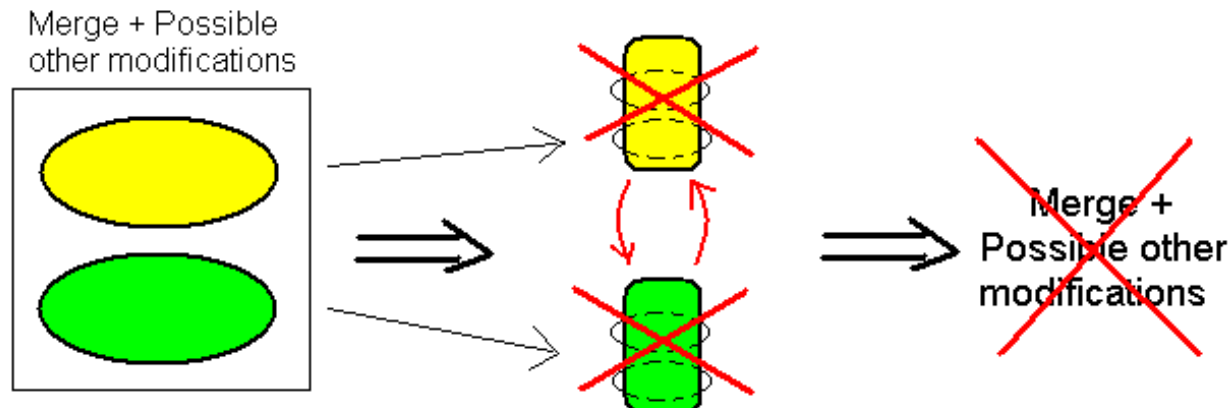# <u>NB:</u> GPLv3 Copyleft

- **GPLv3 is a copyleft licence :**

⇒ **Any modified version, if "conveyed", must be "conveyed" under GPL3**

  - **CONVEY = any kind of propagation that enables other parties to make or receive <u>copies</u>. <u>Mere interaction</u> with a user through a computer network, with no transfer of a copy, is not conveying.**

  - **PROPAGATE a work = to do anything with it that, without permission, would make you directly or secondarily liable for infringement under applicable copyright law, except executing it on a computer or modifying a private copy. Propagation includes copying, distribution (with or without modification), making available to the public, and in some countries other activities as well.**
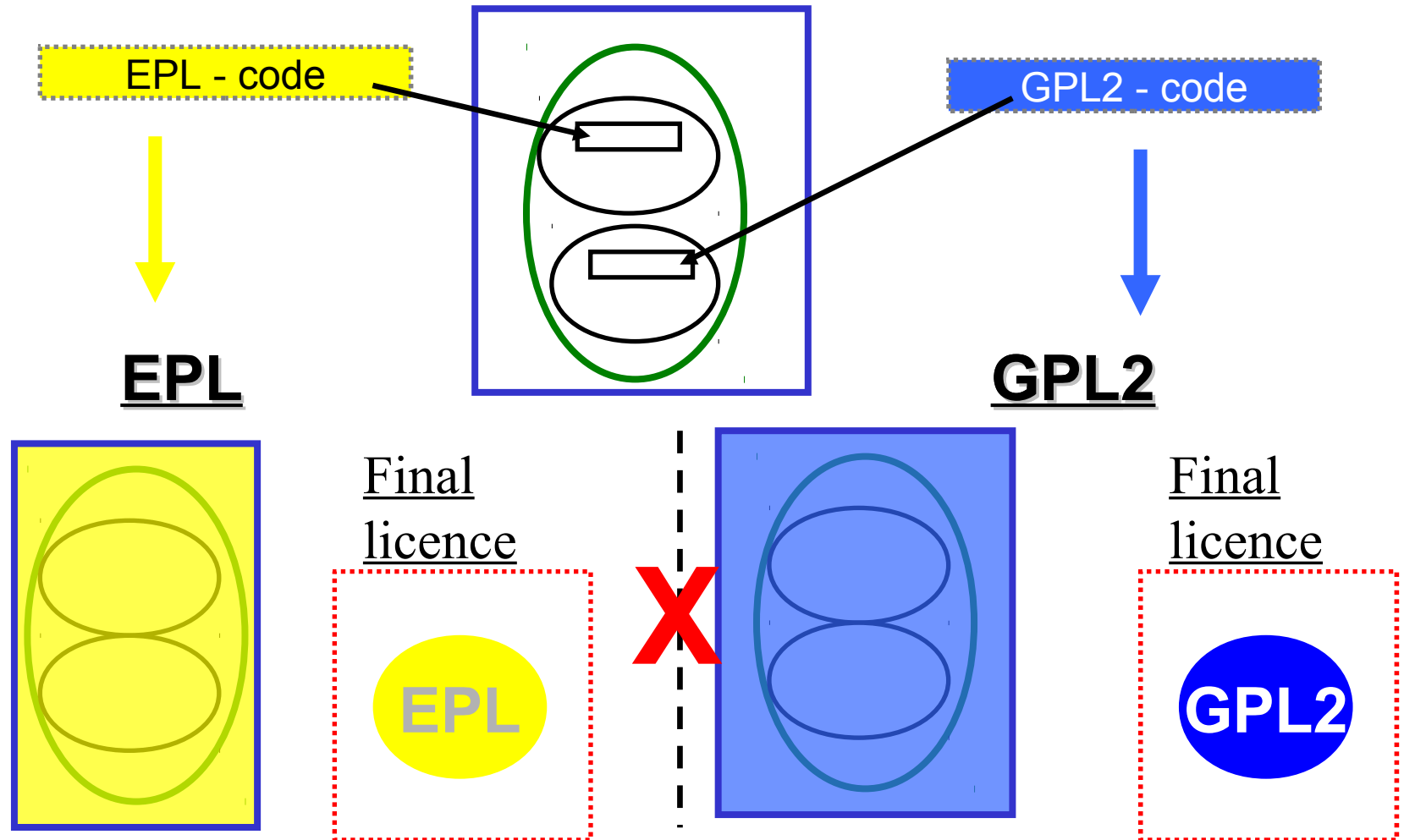
NB: GPLv3 : Copyleft trigger

"Unlimited permission" Art. 2 al. 1

Everything that requires a permission from the copyright holder (except : running the program/ modifying a private copy)

ALL ACTS COVERED BY COPYRIGHTS
Includes : - executing the program
- Modifying a private copy

PROPAGATE

ASP

Any kind of propagation that enables other parties to make or receive copies

CONVEY

"outsourcing" case

Art. 2 al 2

other cases?

Convey modified versions

Art. 0 Déf. of "Convey"

Art. 5 = COPYLEFT TRIGGER
⇒**Any modified version, if "conveyed", must be "conveyed" under GPL3**
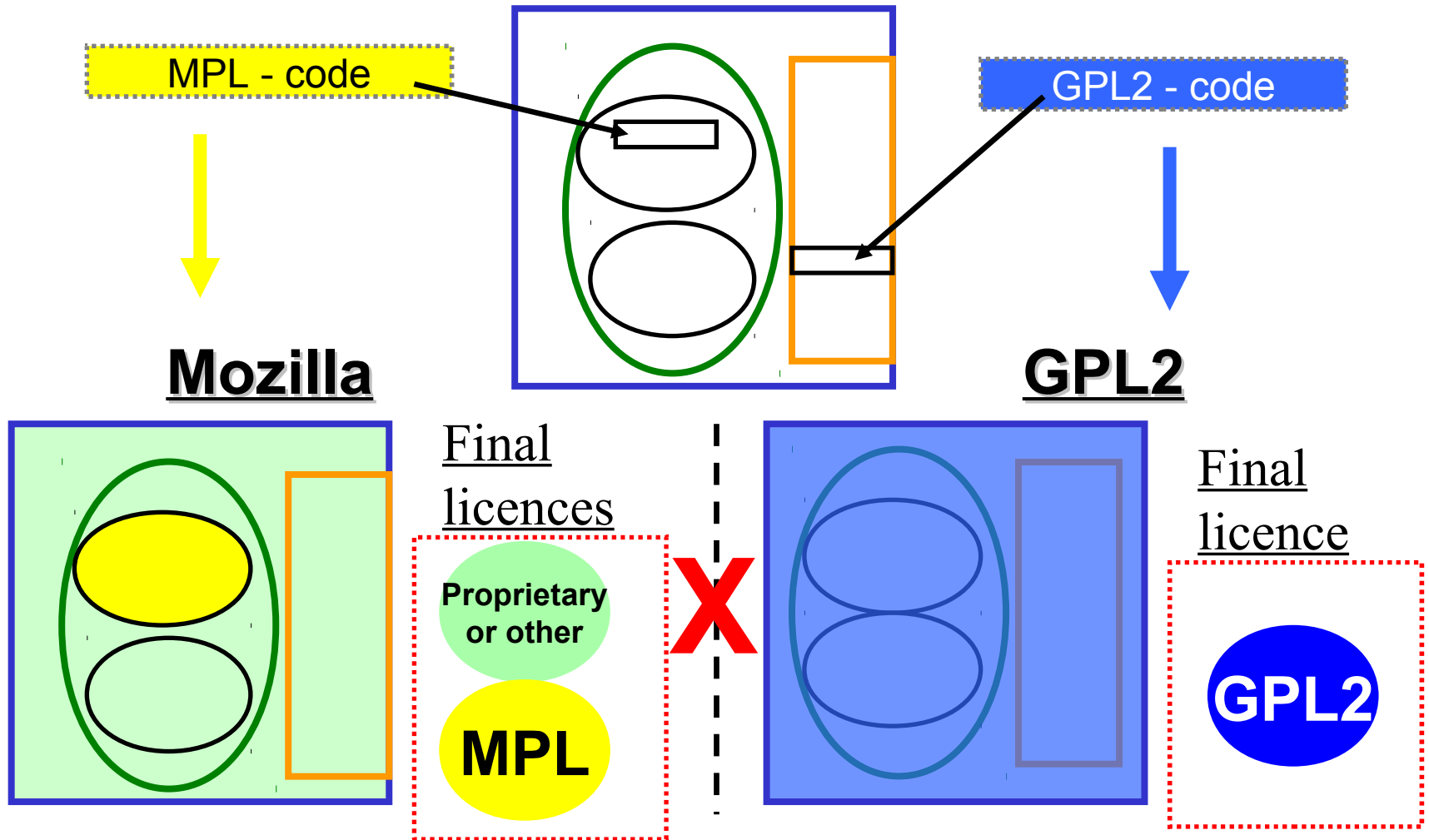
Copyleft Incompatibility

- **Merging/combining** some code with copyleft licensed code usually means that the **copyleft licence is predominant**
  - ⇒ The result of the merger <u>must</u> be licensed under this copyleft licence

- **Copyleft Incompatibility** is due to the fact that <u>each one of the copyleft licences,</u> under which the codes **to be merged / combined** are licensed, oblige the licensee to redistribute the result <u>under itself</u> :
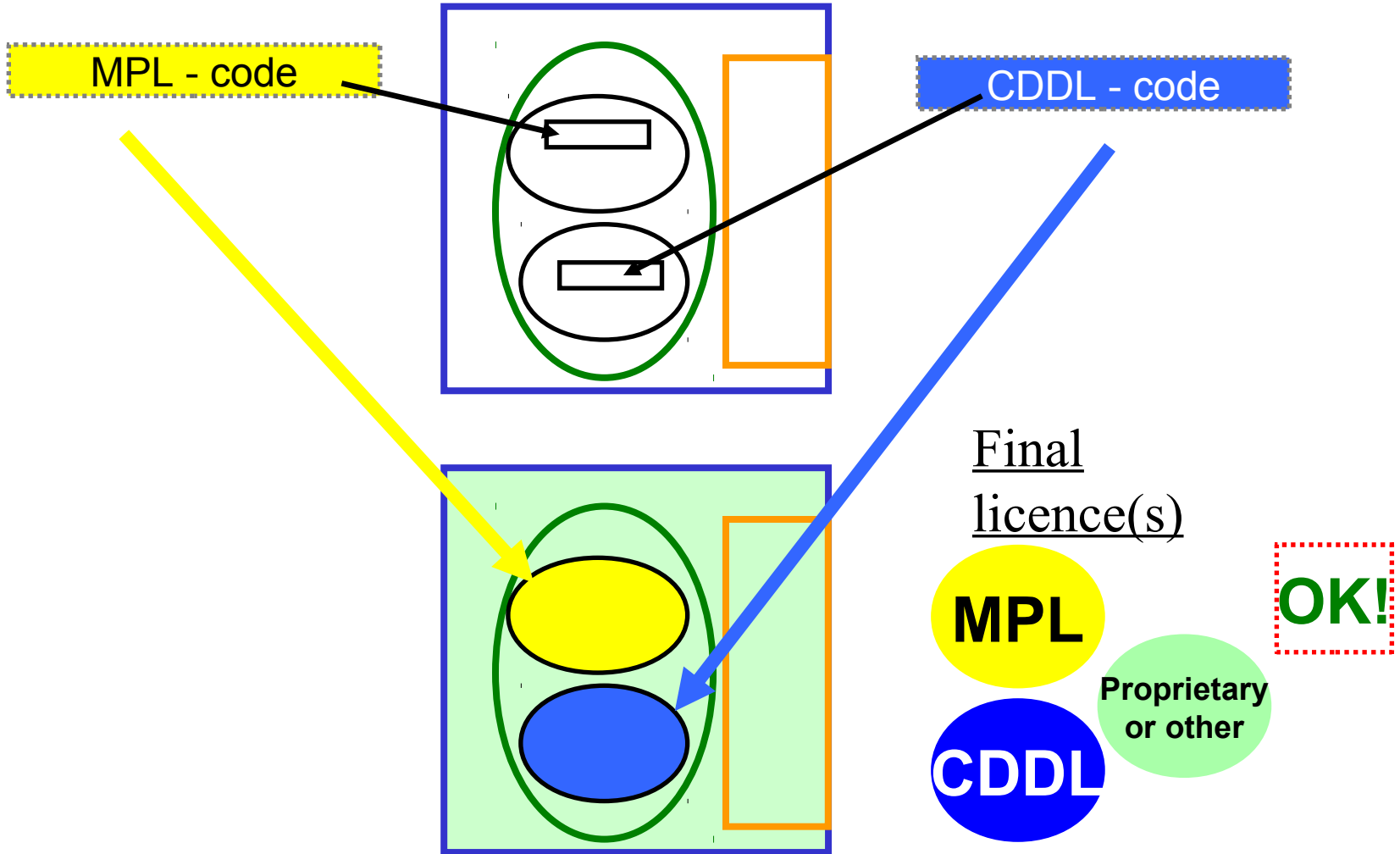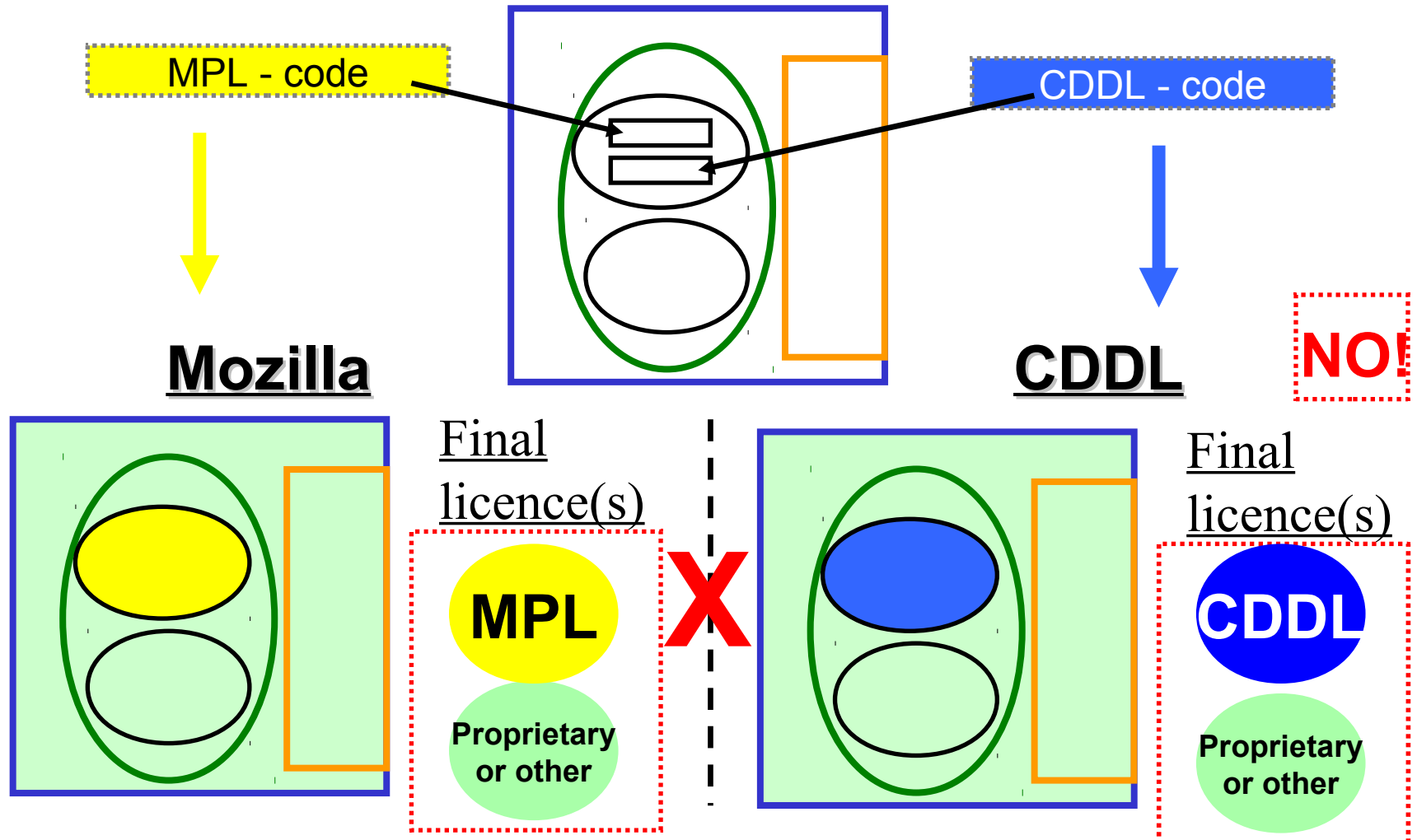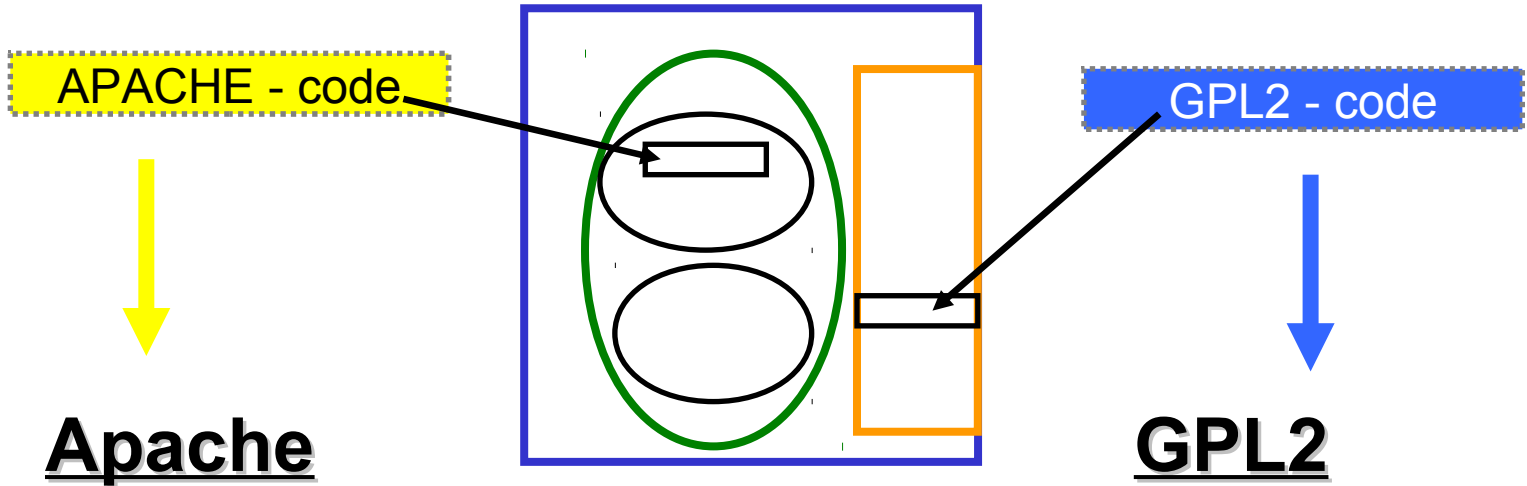
Ex.: copyleft incompatibility

EPL - code

GPL2 - code

EPL

GPL2

Final licence

Final licence

EPL

GPL2

EX. : Mozilla is not GPL2 Compatible

MPL - code

GPL2 - code

Mozilla

GPL2

Final licences

Final licence

Proprietary or other

MPL

X

GPL2

MPL - code

CDDL - code

Final licence(s)

MPL

CDDL

Proprietary or other

OK!

Ph. Laurent – Copyleft

EX. : Mozilla and CDDL ???

MPL - code

CDDL - code

Mozilla

CDDL

NO!

Final licence(s)

MPL

Proprietary or other

X

Final licence(s)

CDDL

Proprietary or other

NB : there are other types of incompatibilities

APACHE - code

GPL2 - code

Apache

GPL2

Final licence

Even if Apache is not Copyleft, the licensee is bound by obligations that contradict GPLv2

X

GPLv2
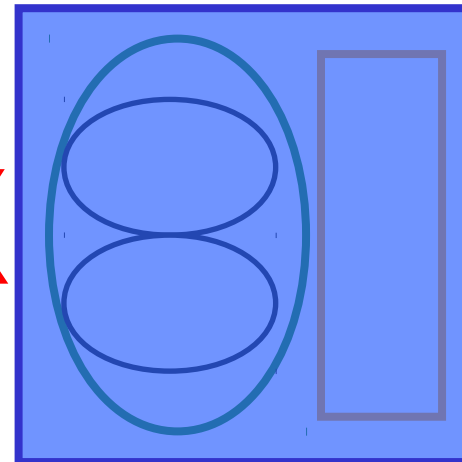
Thank you for your attention !

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