Open Source Licensing

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Open source software drives innovation — but it also introduces legal, compliance, and intellectual property risks. Banner Witcoff's Open Source practice group advises companies of the risks associated with the use of open source software, helps companies implement policies and procedures regarding the use of open source software, and adopt, develop, and commercialize software that incorporates open source components while protecting proprietary technology and business objectives.

Why Open Source Licensing Matters

Open source licenses impose obligations that can affect ownership, distribution rights, and commercialization. Without careful review, companies may unintentionally expose proprietary code or limit future business options. Our attorneys help you:

- Understand the risks associated with using open source software
- Develop policies and practices that comply with open source license requirements while working with your business goals
- Manage risks associated with copyleft and permissive licenses
- Protect proprietary software and trade secrets
- Structure compliant distribution, SaaS, and cloud deployment models
- Avoid infringement, enforcement, and disclosure pitfalls
- Support due diligence, audits, and investor or acquirer reviews

With the right strategy, open source can be a competitive advantage — not a liability.

Our Open Source Licensing Approach

1. Open Source Risk Assessment

We analyze your software stack to identify open source components, applicable licenses, and potential compliance obligations.

2. License Interpretation & Compliance Guidance

Our attorneys provide clear guidance on obligations related to disclosure, attribution, source code availability, and derivative works.

3. Policy Development & Governance

We help organizations implement open source policies, approval workflows, and internal controls to manage risk at scale.

4. Commercialization & Distribution Strategy

We advise on licensing implications for SaaS, cloud services, embedded software, APIs, and product distribution.

5. Transaction & Due Diligence Support

We support open source reviews in mergers, acquisitions, investments, and licensing transactions.

6. Enforcement & Dispute Avoidance

We help mitigate enforcement risk through proactive compliance, remediation planning, and negotiation support.

Why Companies Choose Banner Witcoff

Our attorneys combine deep software licensing experience with strong intellectual property backgrounds to deliver practical guidance across complex technology stacks. We advise clients at every stage—from development and deployment to commercialization and exit—ensuring continuity, compliance, and long-term flexibility. Our advice is bespoke to each client's development model, risk tolerance, and business objectives, rather than relying on one-size-fits-all checklists, and we help companies navigate open source compliance across jurisdictions and international distribution models.

Industries We Support

- Software, SaaS, AI & machine learning
- Consumer electronics & embedded systems
- Fintech, e-commerce & data platforms
- Medical devices & regulated software
- Automotive, IoT & industrial technologies

Relevant Practices

Appellate Litigation

Brand Protection

Copyright Registrations and Enforcement

Counseling, Opinions + Licensing

Counterfeit Goods Seizure

Design Patents

Jury Trials

Litigation

Patent Interferences

PTAB Litigation

Patent Prosecution

Section 337/ITC Litigation

Trade Dress

Trade Secrets

Trademarks