



Open Source Advising at Scale

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FINOS
June 8, 2020
The Internet

Agenda

Open Source Refresher

Definition &
License Archetypes

Open Source Law

Making calls without
(much) caselaw.

Counseling @ Scale

How to advise 60,000
developers for millions of
use cases

The Open Source Stack For Lawyers

Economic

Political

Social

Legal

Technical

A Counseling Framework

Economic

Political

Social

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Technical

Commodity

Custom

What Is A License?

Permission

Permission

(usually subject to conditions or obligations)

Open Source: Permissions & Conditions or Obligations



Right to Use, Copy, Modify, and Distribute (FSF – Four Freedoms)



Must Meet Conditions or Obligations

Typical: provide notice and/or provide source

License Archetypes

Ultra Permissive

Permissive

Weak Copyleft

Copyleft

Network Copyleft



Increasing Obligations

Open Source License Archetypes

Ultra Permissive
(WTFPL, Unlicense, CC0)

- Goal: Maximum Rights, **NO** Obligations

Permissive
(MIT, BSD, Apache 2.0)

- Goal: Maximum Rights, Minimal Obligations
- Distribution Triggers Attribution Obligation

Weak Copyleft
(EPL?, LGPL, MPL)

- Goal: Preserve Freedom In A “Core”
- Distribution Triggers Attribution Obligation & Source Code Obligation

Copyleft
(GPL)

- Goal: Preserve Downstream Rights
- Distribution Triggers Attribution Obligation & Source Code Obligation

Network Copyleft
(AGPL, EUPL, CPAL)

- Goal: Extend Copyleft to Network Services
- Network Interaction Triggers Attribution Obligation & Source Code Obligation

Notices: Facile Dictu, Difficile Factu

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Do Not Translate or Localize

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1. .NET Compiler Platform ("Roslyn") (<https://github.com/dotnet/roslyn>)
2. abbrev.js (<https://github.com/isaacs/abbrev-js>)
3. acorn (<https://github.com/ternjs/acorn>)
4. Acorn (and other files)
5. acorn-jsx (<https://github.com/RRReverser/acorn-jsx>)
6. acorn-to-esprima (<https://github.com/babel/acorn-to-esprima>)
7. Active Directory Authentication Library (ADAL) for .NET (<https://github.com/AzureAD/azure-activedirectory-library-for-dotnet>)
8. [ActiveState](#) cookbook recipe "Remove duplicates from a sequence"
9. Adrian Mato [Sondelle](#) (<http://yensdesign.com/2008/09/how-to-create-a-stunning-and-smooth-popup-using-jquery/>)
10. agent-base (<https://github.com/TooTallNate/node-agent-base>)
11. Alexander [Chemeris](#)' ISO C9x compliant [inttypes.h](#) for Microsoft Visual Studio (<http://code.google.com/p/msinttypes/>)
12. align-text (<https://github.com/jonschlinkert/align-text>)
13. alter (<https://github.com/olov/alter>)

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Technical Aside: What is Linking?



PROGRAM



LIBRARY

Technical Aside: Static Linking

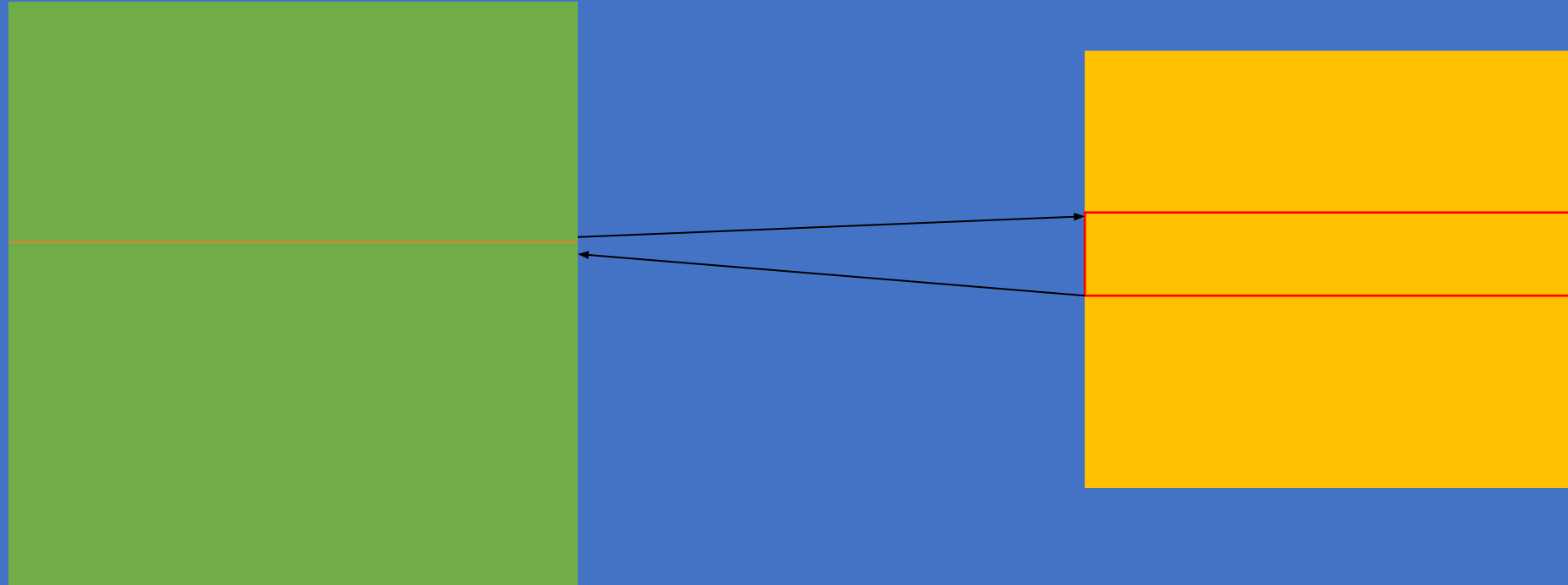


PROGRAM



LIBRARY

Technical Aside: Dynamic Linking



PROGRAM

LIBRARY

The Extent of Copyleft: Derivative Works

“A ‘derivative work’ is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a ‘derivative work’.”

17 U.S.C. 101

The Extent of Copyleft: The Game Genie Case

Lewis Galoob Toys, Inc. v. Nintendo of Am., Inc., 964 F.2d 965 (9th Cir. 1992)

The Extent of Copyleft: Duke Nukem

Micro Star v. Formgen, Inc., 154 F.3d 1107 (9th Cir. 1998)

The Open Source Stack Example: EPLv1

Copyleft extends to changes / additions to the Program, but does not extend to “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.**”

The Eclipse Public License v1, Sec. 1

The Open Source Stack Example: EPLv1

26. 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 project code might or might not create a derivative work, depending on all of the other facts and circumstances.

The Eclipse Foundation EPL FAQ

The Open Source Stack Example: EPLv1

Eclipse Public License 1.0 (EPL-1.0) 

Code License managed by [kevin](#), submitted 5 years ago. [#Open Source](#) [#OSI-Approved](#) [#Copyleft](#)

 Summary

 Fulltext

 Changesets

Quick Summary

 Edit

This license, made and used by the Eclipse Foundation, is similar to GPL but allows you to link code under the license to proprietary applications. You may also license binaries under a proprietary license, as long as the source code is available under EPL.

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What Is An Open Source License?

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How to advise 60,000
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A Counseling Framework

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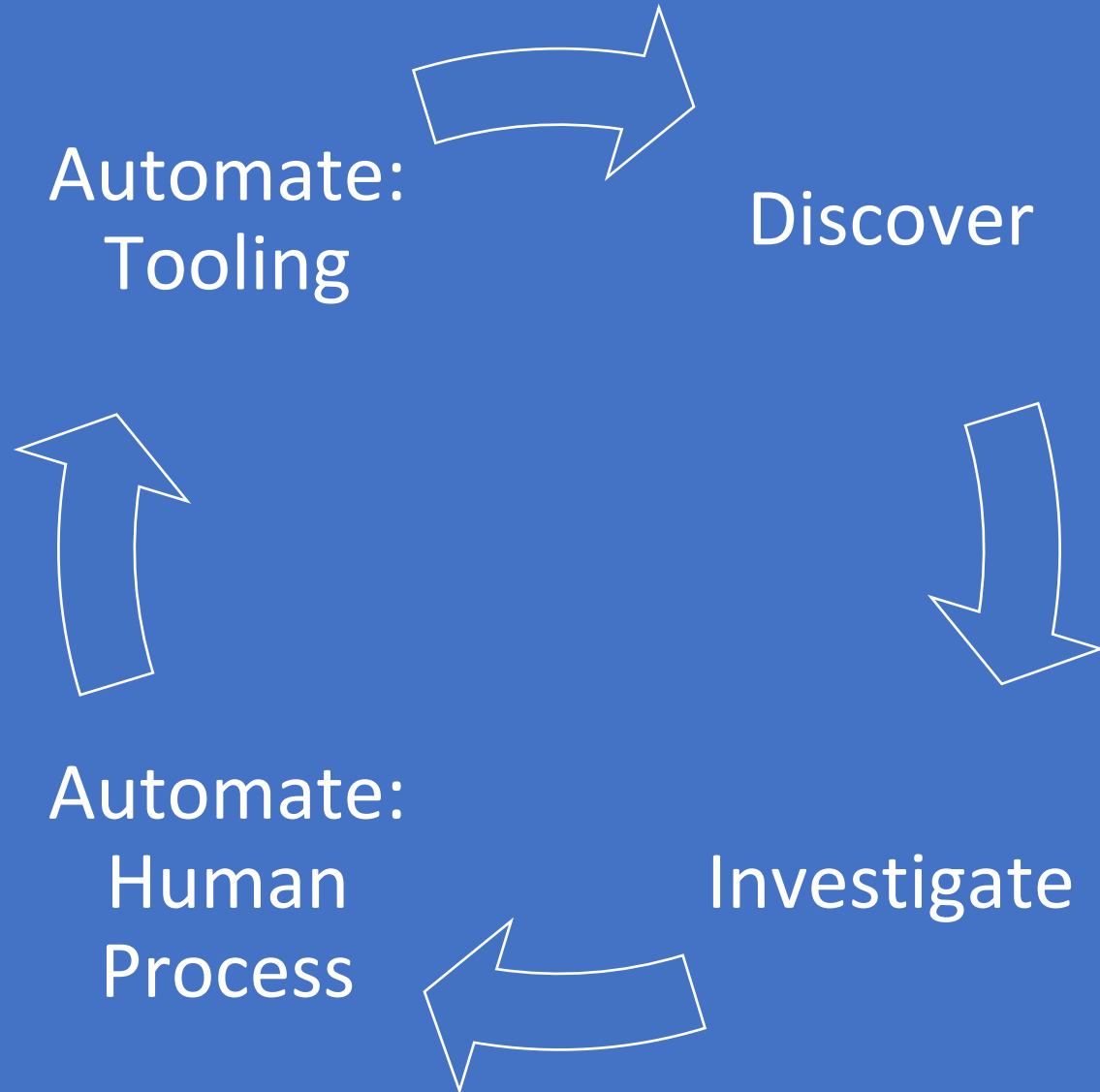
Legal

Technical

Commodity

Custom

OSS Counselling @scale



OSS Counselling @scale: Use

- Get into developer tools.
- Keep it simple.
- Iterate: turn bespoke into commodity.

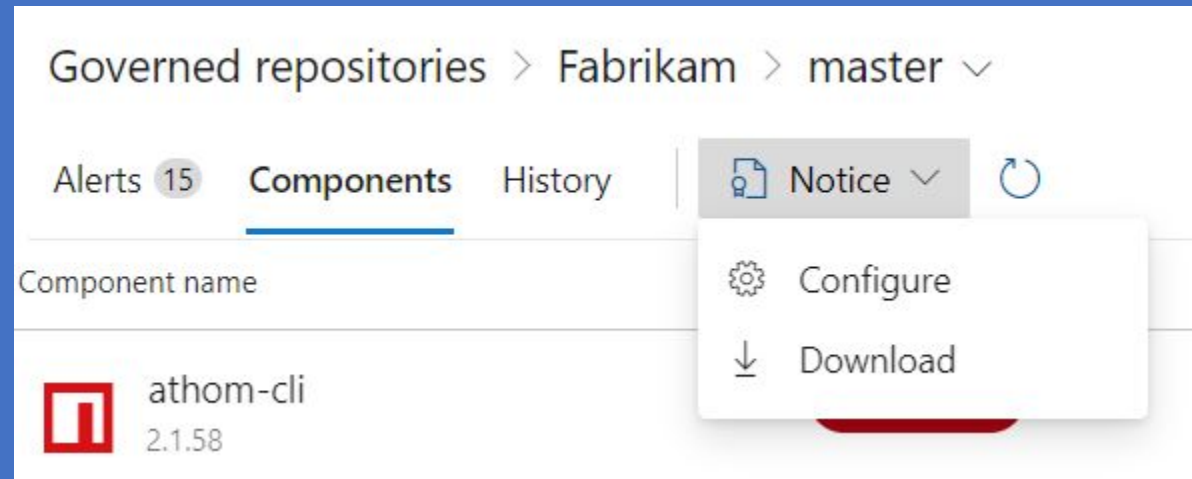
Use: What do we care about?



Use: sharing creates value




Notices: Facile Dictu, Facile Factu



Governed repositories > Fabrikam > master ▾

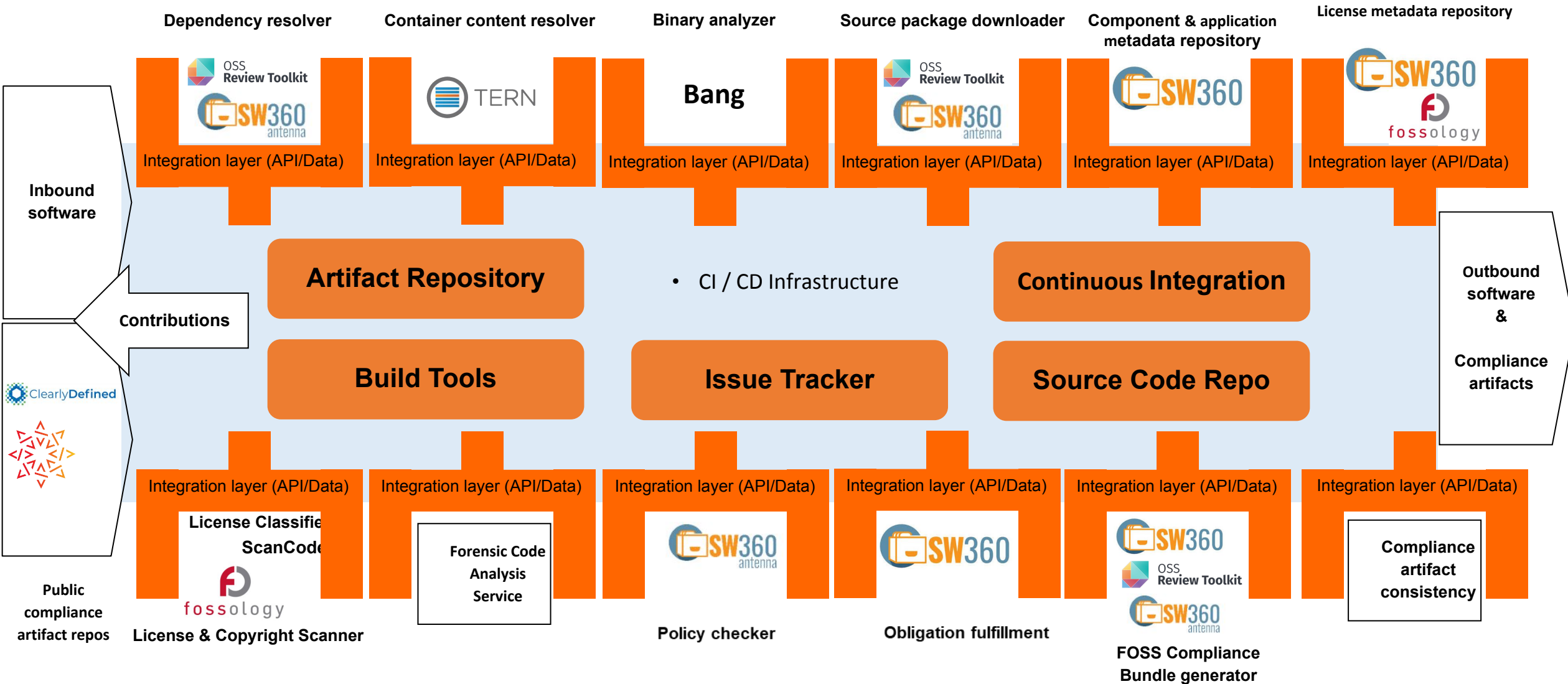
Alerts 15 **Components** History | Notice ▾ ↻

Component name

	athom-cli 2.1.58
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The screenshot shows a web interface for managing components. At the top, there is a breadcrumb trail: "Governed repositories > Fabrikam > master". Below this, there are navigation tabs: "Alerts 15", "Components" (which is the active tab), and "History". To the right of the tabs is a "Notice" dropdown menu with a refresh icon. The dropdown menu is open, showing two options: "Configure" (with a gear icon) and "Download" (with a downward arrow icon). Below the navigation, there is a table with a header "Component name". The table contains one entry for "athom-cli" with version "2.1.58" and a red logo icon.

Example Automation Implementation Using Only Open Source Tools



OSS Counselling @scale: Contribute / Release

- What are you defending against?
- Small code exceptions to promote engagement?
- Distinction between utilities/products?
- Cost of forking maintenance.
- Meet communities where they are (CLA/DCO, etc.).

Questions?