



# Due Diligence at Eclipse: How it Benefits our Community

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# Outline

1. Why Perform Due Diligence?
2. How it Benefits the Community
3. The Eclipse Intellectual Property (IP) Policy
4. Responsibilities
5. Origin of Code Contributed to Eclipse
6. Securing the Necessary Rights
  - i. Committer Contributions
  - ii. Contributor Contributions
  - iii. Third Party Components
7. Due Diligence Review
  - i. Foundation Review
  - ii. Areas of Focus
  - iii. Tools
  - iv. Complexities of Nesting
  - v. Following Review
  - vi. Following Approval



# Why Perform Due Diligence?

- It can have serious financial implications
  - If the necessary rights to re-distribute the IP are not obtained, companies incorporating Eclipse software in their products risk legal liability.
  - The owner of the IP may also apply for an injunction to prevent companies from shipping products containing Eclipse software.
- Development Freedom
  - If code is included in the Eclipse code base with restrictive license terms, it could severely limit what can be done with Eclipse code in the future.



# How it Benefits the Community

- Commercial Entities:
  - Commercial entities benefit in that the risk of legal liability associated with incorporating “unclean code” are minimized.
- Developers:
  - Development freedom is maintained.
  - By reviewing the code prior to inclusion in Eclipse, we lessen the risk that code must later be removed due to IP concerns.
  - Having to remove the code after it has been included in the code base would result in wasted development time associated with:
    - the initial development effort to include the IP
    - the effort to remove the IP
    - the effort to re-work dependencies built on the IP

# The Eclipse Intellectual Property (IP) Policy



- The Eclipse IP Policy is designed to ensure that we do the work necessary to maintain the “cleanliness” of the Eclipse code base from an IP standpoint.
  - We have the necessary rights to incorporate the code into the Eclipse code-base.
  - Code that is governed by restrictive licenses is not incorporated into the Eclipse code base.



# Responsibilities

## **Committer Responsibilities:**

- All Contributions are reviewed by the Committer who wishes to include the code in the Eclipse code base in accordance with the Eclipse Committer Due Diligence Guidelines.  
(<http://www.eclipse.org/legal/committerguidelines.php>)

## **Project Responsibilities:**

- Project Log - [http://www.eclipse.org/projects/dev\\_process/project-log.php](http://www.eclipse.org/projects/dev_process/project-log.php)
- “About” Files - <http://www.eclipse.org/legal/epl/about.php>

## **Foundation Responsibilities:**

- Additional Eclipse Foundation review will be conducted depending on the nature of the Contribution (e.g. size, applicable license, use of cryptography) and its origin.

# Origin of Code Contributed to Eclipse



## ***Code Originates from Three Sources:***

1. Contributions from Eclipse Committers,
2. Contributions from Contributors
3. Contributions from third party sources (e.g. another open source project)



# Securing the Necessary Rights

## ***Committer Contributions***

- Legal Agreements are entered into to secure the necessary rights to have the code included in Eclipse.
  - Member Committer Agreement
  - Individual Committer Agreement
  - If the Individual Committer is Employed – An Employer Consent Form
- Through these Agreements, the Committer agrees that the Eclipse Public License (EPL) governs the code submitted by the Committer.



# Securing the Necessary Rights

## ***Contributor Contributions***

- All content must be submitted through any of the channels existing on the Eclipse Foundation website such as, the Bugzilla bug reporting system.
- This material is licensed to others under the terms of the Eclipse Foundation Terms of Use.
- The Eclipse Foundation Terms of Use define the License Terms that apply to any intellectual property submitted to the Eclipse Foundation Website.
  - Modifications to EPL code are governed by the EPL
  - Modifications to code governed by another license are governed by that other license and the EPL.



# Securing the Necessary Rights

## ***Contributor Contributions continued...***

- For all other contributions...
  - “you grant (or warrant that the owner of such rights has expressly granted) the Eclipse Foundation, the Members and the users of this Web-site a worldwide, unrestricted, royalty free, fully paid up, irrevocable, perpetual, non-exclusive license to use, make, reproduce, prepare derivative works of, publicly display, publicly perform, transmit, sell, distribute, sublicense or otherwise transfer such Materials, and/or derivative works thereof, and authorize third parties to do any, some or all of the foregoing including, but not limited to, sublicensing others to do any some or all of the foregoing indefinitely.”



# Securing the Necessary Rights

## ***Third Party Contributions***

- Third party contributions such as code originating from another open source project (e.g. [www.apache.org](http://www.apache.org)) are licensed under the license terms that apply to that project.

# Due Diligence



## ***Foundation Review***

### Committer Contributions

- Code contributed by a Committer is reviewed by the Foundation if the code is an initial contribution to a project, was written outside of the supervision of the projects' project management committee, is being submitted under a license other than the EPL, or contains cryptography.

### Contributor Contributions

- Code is typically reviewed by the Foundation (with some exceptions).

### Third Party Contributions

- All third party contributions are reviewed by the Foundation.

# Due Diligence



## ***Areas of Focus***

Due diligence review involves three primary areas of focus:

### 1. Pedigree

- Who wrote the code and how were the rights obtained

### 2. License Compatibility

- If the applicable license is not EPL, is the license associated with the code compatible with the EPL?

### 3. Suitability

- The code is reviewed for inappropriate language/references.

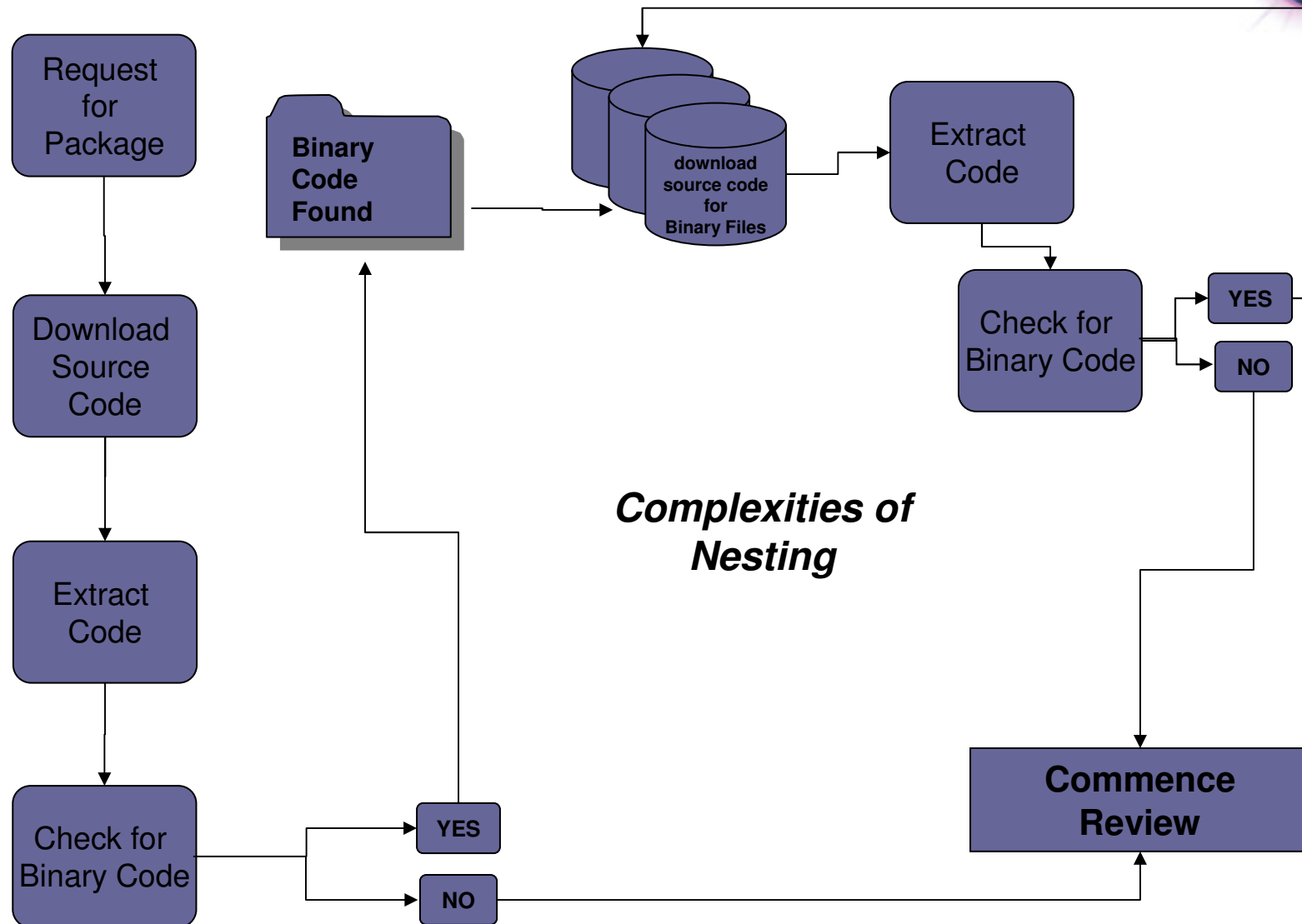


# Due Diligence

## *Tools*

- The Eclipse Foundation uses a variety of tools to scan the source code of the code that will be distributed in either source or binary form.
- These tools scan the code for keywords related to a number of areas such as:
  - Words with legal significance
  - Open source license references
  - Copyright references
  - Inappropriate language
- They also look for code that may have been copied from another open source project.

# Due Diligence





# Due Diligence

## ***Following Review:***

- Areas of concern that are highlighted are investigated.
- Committers and/or Contributors and developers from other open source projects may be contacted to investigate concerns identified, and if they remain problematic, opportunities to correct the problem will be pursued.
- If the package cannot be approved, the Committer is contacted, advised of the Foundation's concerns and a technical workaround is investigated.



# Due Diligence

## ***Following Approval:***

- The Committer checks the code into CVS in preparation for distribution.
- When the project is ready to release, a release review is held, at which point the IP Log and About files are reviewed and approved by the Foundation. Formal distribution then takes place.
- The code is then distributed under the terms of the Eclipse Foundation Software User Agreement:  
<http://www.eclipse.org/legal/epl/notice.php>

# Questions?



## ***Eclipse Legal Resources:***

<http://www.eclipse.org/legal/>

- [Guide to the Legal Documents:](#) This provides an in-depth look at the many legal documents related to the Eclipse open source community.
- [EPL Frequently Asked Questions:](#)
- [Eclipse Foundation Legal Frequently Asked Questions:](#)
- For other questions, email: [license \(at\) eclipse.org](mailto:license@eclipse.org)