



CodeWeavers and Microsoft Licensing Questions

The interaction of CodeWeavers' products (CrossOver Office™, CrossOver Plugin™, and CrossOver Office™ Server Edition) with those of Microsoft raises legal issues around what Windows software can be run under Wine. In order to help our customers better understand these issues, CodeWeavers has compiled a list of commonly asked questions and their answers.

Q. Can Microsoft sue CodeWeavers or its customers for copyright infringement or reverse engineering, either for Windows or its Windows applications such as Microsoft Office?

A. No. The underlying technology utilized by CodeWeavers to enable Windows software to run under Linux is an open-source technology called Wine. Wine has been developed completely independently, with no reverse engineering and no access to Microsoft source code. The Wine source tree, with a complete revision history since the inception of the project, is freely available to the public, and will substantiate the claim that Wine was created as a strictly separate entity from the Microsoft proprietary code base.

Q. Can Microsoft prevent CodeWeaver's customers from running Microsoft applications on Linux?

A. No. Microsoft's end-user licenses do not preclude operating their applications under other operating systems. Were Microsoft to attempt to prohibit such usage, by requiring that Microsoft products be run only on the Windows OS, they would be in violation of the Sherman Anti-Trust Act. The Sherman Act precludes making the usage of a non-monopoly product dependent on the purchase of a monopoly product. Microsoft has been convicted of monopolist practices under the Sherman Act regarding their operating systems. As a result, they cannot legally make Microsoft Office dependent on having a Windows OS license.

Q. Can Microsoft sue CodeWeaver's customers for using Wine?

A. Not if you license Wine from CodeWeavers. One of the protections you receive as a customer of CodeWeavers is that you are licensing Wine from us. We warrant that the product you are buying from us is legal. If it isn't, the term of your license agreement with us says that **we** are responsible for its legality, not you.

Q. Isn't Wine a risky new technology?

A. No. In fact, Wine has been in active use since 1993. Since then, it has been adopted by many large companies and integrated into their products, including Borland® (Kylux™ development environment), IBM® (WebSphere® Studio HomePage Builder), and AccPac® (Linux versions of ACCPAC Accounting solutions). Wine is a stable, well-understood technology that is being actively refined and enhanced to better support Win32 applications.

Q. Can Microsoft change its Win32 application programming interface (API) and break Wine?

A. Not really. There is a common misperception that Microsoft changes the Win32 API on a constant basis, thereby making it difficult for Wine to “keep up”. In fact, this isn’t true at all, since changing the API would break Microsoft’s existing codebase for a very large installed base of systems. So long as Microsoft or other vendors produce software for the Win98 and Win2000 platforms, Wine will work as well, since Wine is a competitive replacement for those platforms.

Q. If Microsoft sues CodeWeavers for patent infringement, won’t that destroy CodeWeavers’ product line and Wine in general?

A. We don’t think so. In our opinion, and that of other legal experts associated with open source software groups, Microsoft is in a disadvantageous position to press such claims, for three important reasons:

First, legal action against CodeWeavers would trigger a clause in the LGPL license for Wine which would jeopardize the ability of *any* user of Wine to redistribute Wine in its own products. Wine is currently distributed by some of Microsoft’s largest and best customers, such as Hewlett Packard, Computer Associates, and IBM, as well as by fierce competitors like Sun Microsystems, Borland, and Redhat. Suing CodeWeavers thus has the effect of angering those large players, who in many cases hold patents for important technology components of Microsoft’s own products. In a nutshell, suing CodeWeavers gets Microsoft in hot water with other large, powerful entities in the technology marketplace who have critical interests in the success of open source software.

Second, suing CodeWeavers puts Microsoft back into hot water with federal and state governments. Microsoft is essentially on probation as a result of the recent anti-trust judgment against it. Aggressive action against small companies like CodeWeavers would very likely trigger suits on behalf of some of these entities against Microsoft charging predatory behavior—a legal complication that Microsoft does not want at the moment.

Third, in the event of a lawsuit, it would be almost impossible for Microsoft to get an injunction against CodeWeavers forcing us to cease our Wine business, as this would constitute an undue and disproportionate burden on CodeWeavers. In the eyes of the law, having CodeWeavers go out of business would be more injurious to us than Microsoft’s potentially losing some money as the result of Wine. So even with a suit, the odds are good that CodeWeavers would be able to do business until a suit was resolved.

Taken together, we think it is clear that legal action against CodeWeavers will bring Microsoft little material gain, while inflicting very real harm on itself in the form of additional legal entanglements, bad PR, and angry large customers.