

30th April 2004

Re: US FTA and Impacts on Open Source Software

My name is Voon-Li Chung, and I am the Managing Director of picoSpace PTY LTD, a small business that provides IT Consultancy services, employing 5 people (both directly and indirectly). Our company follows a "distributed" model, whereby each employee (myself included) work from our respective homes, which are scattered throughout the Perth metropolitan region.

Our IT Consultancy's foundation is based on the research, design, implementation and support of software that has been developed using Open Source principles. In summary, Open Source Software refers to the development of software where the source code (the so-called "blueprints" of the software) are publicly available and free for distribution to anyone; in this manner, literally hundred of thousands of programmers across the world collaborate, using their combined skills to quickly develop software faster than any individual organization could. Contrary to adverse claims made by prominent software companies, Open Source Software's legal foundations are totally dependent on existing copyright protections – permission to use someone else's copyrighted material is only granted on the basis of the free availability of innovations made in the future.

Prominent examples of Open Source Software include the Linux operating system - cited by Microsoft as the most significant threat to its own monopoly, and Apache - the web server software that hosts more than 75% of the worlds web sites (including the website of the Australian Broadcasting Corporation www.abc.net.au).

By using Open Source Software, thousands of organisations and individuals across Australia are saving considerable amounts of money, that would otherwise be spent on software licensing costs. Additionally, because the source code to Open Source Software is publically available, Australian programmers are being regularly employed to extend, install or maintain Open Source Software-based systems.

Provisions in Chapter 17 of the Australia-United States Free Trade Agreement will harm the flourishing Australian Open Source community both directly by making legitimate and useful Open Source software illegal, and indirectly by preventing the Australian Parliament from considering changes to our intellectual property laws on their own merits.

I have evaluated some of the previous submissions to the Joint Standing Committees on Treaties (Australia-US Free Trade Agreement <http://www.aph.gov.au/house/committee/jsct/usafta/index.htm>) and picoSpace's arguments against the ratification of the FTA is in firm agreement with the submissions of Electronic Frontiers Australia Incorporated (Submission 50),

Cybersource PTY LTD (Submission 85) and Xamax Consultancy PTY LTD (Submission 93).

On the arguments made in the submissions that I refer to, as well as those concerns I have highlighted above, the threat posed by the provisions in Chapter 17 of the FTA to the development of Open Source software poses a real and direct threat to Australia's national interest, and should therefore be opposed by The Senate.

Yours faithfully,

Voon-Li Chung
Managing Director,