

Andrew Warner: Hey everyone. I'm Andrew Warner. I'm the founder of Mixergy.com, home of the ambitious upstart. Every day I invite a different entrepreneur here to talk about how he or she built their business, to ask them questions like how much money did you make on your businesses, to ask them about their setbacks and how they recovered. I do it all for an audience of entrepreneurs so that they can learn and go out there, build their own companies, and hopefully come back here and do an interview someday themselves.

Today's guest rescheduled at the last minute. Fortunately, I noticed something interesting happen on Twitter. The old debate between WordPress and Thesis broke out and I thought I'd invite both founders, the founders behind both those companies, to come here and talk about what the argument is. They both were past Mixergy guests, so I have them on my Skype and I was able to connect them.

The first guest is Matt Mullenweg, the founding developer of WordPress. WordPress is an open source, freely available platform. I was going to say for blogging, but it's for more than blogging. It's used by sites like Mixergy and by the guys who create The Wall Street Journal's website. WordPress, you know it.

The other side is Chris Pearson. He is a developer of Thesis. It is a theme that's built on top of WordPress. Many people happily pay for Thesis. It is used by sites like Copyblogger.com.

At issue is, as I said earlier, if Chris creates a theme that's built to work on top of WordPress, does he have to use the same GPL (general public license) that WordPress has? Just as important for me as a businessman, if he does, does it mean that Thesis, which many people today pay for, does it mean that it has to be given away as freely as WordPress? Those are the issues that I wanted to find out about. I also was hoping to just bring them together in peace and harmony and be the person who would do that and get the credibility that comes from finally solving this Crips versus Bloods issue that goes on in the Blogosphere every once in a while. I'll let you see if I did it or not.

I have to thank my three sponsors. Shopify, thanks for paying for me to be able to do stuff like this. Grasshopper, thanks for continuing to send those checks over. PicClick, my buddy Ryan, congratulations on building that company.

Here is the program.

Andrew Warner: Why don't we start with Matt? Can you give us just a short version of what the issue is from your side and then we'll hear it from Chris.

Matt Mullenweg: Sure. WordPress is built on the license of a GPL that has enabled hundreds of thousands of people to build amazing businesses off it. All it really

says is that you can do whatever you like but anything built on top of the GPL must be GPL itself. That's the crux of it. There are over 10,000 GPL plug-ins. There are several thousand GPL themes. There are many GPL based theme businesses such as Blutheme, StudioPress, iThemes. You had 80 on the show. That's how the WordPress system works.

Andrew: Your issue with Chris is that he's doing what?

Matt: I don't have any issue with Chris.

Andrew: With Thesis.

Matt: Thesis has stated publicly that they believe in a different interpretation of the GPL. The GPL doesn't apply to them. That WordPress' license doesn't apply and they don't need to follow it. That's obviously harmful to the WordPress community and I would love them to join and be GPL.

Andrew: Chris, what do you say to that?

Chris Peterson: Well, I think let's look at this from a really rational perspective. Matt said for instance, and has said on other occasions, that Thesis is harmful to the WordPress community. I consider that a very interesting statement and one that needs to be examined simply because Thesis has over 27,000 users, many of whom were not introduced to WordPress except through Thesis. Thesis has also, since its inception in 2008 and then prior to that, my legacy before that, has done a lot. Pretty much, I would argue, has been the driving force in both premium theme and just theme innovation in general. Thesis is responsible for the increased amount of attention that this particular aspect of websites has received.

Andrew: Chris, I don't really think Matt's arguing with that. I don't think he is taking any credit away from the significance of Thesis and the functionality of it. He is suggesting that if it is built on top of WordPress than it also needs to have the GPL license, and you're saying that it doesn't. Right, Matt?

Chris: That's correct, but I think that my statement earlier and the point that I am making needs to be made. He is saying that I am hurting the community, yet I am bringing thousands and thousands of people to the WordPress platform and increasing the functionality that they are able to get while using WordPress as their backbone. I am wedding more people to WordPress by offering a fantastic functionality that they're not going to be willing to give up, switch, and go to Drupal or something else where they can't get this. That's important.

Andrew: Matt, what do you say to that?

Matt: I'd like to respond to that. One he isn't inherently hurting the community. It's just that anyone violating the license is disrespectful to thousands of people that built WordPress and all of the other businesses that have respect for WordPress' license. Twenty-seven thousand users are very impressive. In terms of Thesis driving innovation in the world or their premium seat in the market, 27,000 users is basically four hours of WordPress downloads. We do 100,000 to 150,000 downloads when we do releases. WordPress is a community of over 25 million users. Twenty-five thousand; 30,000; even 100,000; would be impressive. I don't think it's fair to say Thesis is responsible for WordPress' success.

Chris: I didn't say that. I didn't say that Thesis was responsible for WordPress' success. I said that Thesis was responsible for bringing a great number of people to the WordPress platform and wedding them to it by offering a superior functionality.

Matt: Superior to all of the themes?

Chris: A superior functionality to that which is offered by the platform without Thesis.

Andrew: So, it does help WordPress to have Thesis. Nevertheless, Chris, what about the license? What about the GPL?

Chris: Okay. Let's think about this. I could build, let's say I want to build a piece of software for distributing music. Something like Last.fm or something along those lines. In theory, this could be built in PHP and exist on any server. There may be, just in theory, I could tie that into WordPress somehow and have people run that through a WordPress site. I would have built this music product, my own thing, totally separate, and then decided to make it usable on WordPress. In doing so, basically, this argument states that because it works on WordPress at all that it must inherit WordPress' license.

I think that is faulty. I want to take this a little bit further and say, at what point does WordPress get to be the be-all end-all about what works with it? All it does is deal with front and backend database rights and reads. Why does it get to determine everything else, even if the scope of another project that works with WordPress may vastly exceed the scope of WordPress itself? How much sense does that make?

Matt: So, basically, without Thesis, WordPress isn't useful for anyone to create websites or have SEO or do anything?

Chris: I didn't say any of that.

Matt: But it's just a backing system? It doesn't really have the scope of Thesis? I'm just trying to understand this.

Chris: I didn't relate that to Thesis. I was merely saying that you could build any application about anything, tie it in, and make it work on WordPress, that shouldn't necessarily dictate that it should inherit WordPress' licensing. That doesn't make any sense.

Andrew: I think what Chris is saying is that if Last.fm or if Andrew Warner creates a plug-in or creates anything that enhances WordPress, do we then have to take the license that WordPress has? Is that right, Chris?

Chris: Well, not exactly. I mean, I would say that plug-ins and really small, tiny bits of functionality that are totally dependent on WordPress, I don't really, well, I guess I can't say that. I don't think that it should have to inherit that. Not a plug-in or something like that. No.

Andrew: Now, is this an opinion or is that based on your reading of the license?

Chris: Brian Wasylik an attorney in Florida has published an article called "Why the GPL Does Not Apply to Premium WordPress Themes." He cites a couple of court cases as precedents, one involving Nintendo and the other involving the Sega Genesis console. If you think about it, the relationship between a console and a game is very similar to WordPress and a theme or WordPress and a plug-in. In both of these cases, where precedent has been set, they determined that the console had no right to dictate what exactly these independent publishers making these games could do as far as their own licensing and stuff is concerned. As far as this is concerned, that is some pretty much landmark litigation that is related to this case. At least something that has actually been tested in court rather than just accusations and, 'Oh, well, we'd prefer that most people would play ball the way that we want.' That's not good enough for me. What's good enough for me is the truth.

Andrew: Matt, what do you think about that opinion?

Matt: Well, first of all, I believe that the person he's referring to was not Brian Wasylik, it was actually Mike Wasylik.

Chris: I meant to say Mike. Sorry about that.

Matt: He is a foreclosure attorney in rural Florida. I'm not a lawyer. Also, the Nintendo case, or whatever, which I think was from the 1980s or 1990s, has nothing to do with GPL. GPL is a license. When you build using other people's software, you have to respect the license that it's under.

For example, some software specifically states, it specifically states there's an exemption.

For example, LGPL software or Apache software that says, 'Well, if you build something on Apache you don't need to follow, there's no restrictions, you don't have to preserve the freedom of your users in building it, if you build a module for Apache.' If you build a module for Drupal or a module for WordPress or a theme for WordPress or anything like that, the license says that you do have to follow the GPL. I think that it's just a matter of choosing the platform. If you disagree with the GPL, just use a platform that doesn't have the GPL.

To clarify something, I'm not a lawyer. I've read it. I've built GPL software for 8 to 9 years now. The GPL is older than I am, or almost as old as I am. It's a professional opinion. The first person I ever talked to this about was Heather Meeker who is a very fancy intellectual property attorney in Silicon Valley. She probably charges \$500 an hour or something, but she is also the chief counsel for Mozilla and Firefox. She is intimately familiar about the GPL, Mozilla's NPL, all of the licenses and how they work.

Recently, I went to The Software Freedom Law Center, which is the, sort of pro bono law group that has done all of the cases around the GPL. There have been a few dozen cases around the GPL. Some of them have had court decisions in Europe. In the U.S., every company that has brought a GPL case, including giants like Cisco, has decided to settle rather than try to challenge it. The Software Freedom Law Center actually went very deep on this. They downloaded WordPress. They went through the code. They looked at how themes work. They looked at how themes use functions, how they use data structures, how they use the database, how they use all of WordPress' code and they determined that they did substantively link.

Chris: Not all themes operate the same way. Not all themes use those things the same way. That's a very, very thin slice of what WordPress, of the way that interaction takes place. That thin slice just does a massive injustice to any type of innovations that may usurp that originally established method of operation. It doesn't leave room for massive fundamental changes in the way things operate. Maybe enhancements in efficiency. Different types of code or the way that code is actually served. That's a very thin slice. I don't see that holding up in court. There's no way.

Matt: I think just one way to test it is, you know, take a screenshot of a website running WordPress without Thesis and then take a screenshot of a website running Thesis without WordPress. It would be a blank screen. It wouldn't work. That's just a very simple test.

Andrew: What about this, Matt . . .

Chris: That's the same thing if WordPress is running a theme. It's a blank screen. The same applies to both. Just to put that out there.

Matt: You could run anything.

Chris: Yeah, and without a theme at all WordPress serves a white page.

Andrew: Matt, when I had Chris on Mixergy you, in the comments, said that he can make one little change and he would be in compliance. What is that change? Then I'll ask Chris how that would impact his business.

Matt: He just has to say it's the GNU GPL. That's it.

Andrew: If you took that, Chris, how would it impact your business?

Chris: Well, I think it would have a variety of different impacts on the business. The most important one to me is simply my right as an individual to put out some creative work that is independent. WordPress did not empower me to write this software, I wrote all this stuff. I thought about all this stuff. I thought about all the data structures inherent to hosting a webpage. I've constructed this all myself. I take great pride in that. I, also, get a little bit defensive when all of that is attacked as if because WordPress existed prior to me coming up with all this stuff that is somehow have to adhere to something that was established beforehand. That's not fair. That's like charging our children with debt that we accrue now. I'm not in line with that philosophy. I think that's terrible.

Matt: What does that mean?

Chris: What does that mean? What?

Matt: Yeah.

Chris: Well, okay, so, I'm going to go back to answering Andrew's question because, he said, how will. . .

Andrew: How would it impact your business?

Chris: One, it would require me to make a concession about something that I don't think that I need to concede to. Why should I change? I'm protected right now. My work is protected, which it should naturally be. I want to retain that right. If I go GPL then I am ceding that right. The number one issue for me is the personal concession that I would be making. Not of any real impact to my business. I don't want to make that personal concession, because I don't have to. Okay?

The number two thing in how my business would be affected is if I was to go to GPL that means that anyone can take my code and do whatever they want with it for any purpose they please. Well, you know, I've already seen this happen where people have tried to do

this but they're not legal in doing so. They'll take thesis and go sell it for \$47 or undercut the price. Why wouldn't you do that? Many people like to talk about this argument and they'll say, 'Well, people sell iPhone knockoffs for cheaper,' or whatever. It's not an exact iPhone though. Sure, if you can get an iPhone for \$50 instead of \$400 you better damn well believe that you're going to buy that \$50 iPhone, if it's the same iPhone. But it's not, so Apple is protected.

In my case, Thesis, if it were GPL it could be the same Thesis. You could be buying the same one for less. Why would you pay my price? Why would you do that? That is opening up the door for a vulnerability that I don't have to open the door up to. Why would I invite that kind of vulnerability knowingly into my life? That doesn't make any sense. I cannot see a sane individual doing that, except for if they thought they might be able to gain more from the perceived exposure they'll get from WordPress. There's something that people see. I'm not going to throw anyone under the bus here, but I know that Brian Gardner and others chose to go GPL because they thought it would be better for their businesses. However, I've gotten feedback from them about links that they have on WordPress and other things and they say it's not worth it. I have to distill that information with my own feelings and it adds up to, 'Not worth it.'

Matt: Can I respond to that?

Andrew: Sure.

Chris: Sure.

Matt: Well, first of all, regardless of promotion from WordPress or anything, I mean, you should respect the license of the software you build on because it's the right thing to do.

Chris: How is that? I think that what I've done stands alone outside of WordPress completely. Why should I respect that? It's not that I don't respect WordPress. I do. I only build on WordPress and push people in its direction because I genuinely appreciate the way WordPress has evolved over the years and what development has occurred. I like many people in the community, also.

Matt: Thank you.

Chris: I'm not disrespecting it. You are claiming that I'm disrespecting it. None of my users, I promise, they don't think I am disrespecting WordPress. They think I am making it better. That's a very, very slanted opinion and one that you continue to perpetuate. I argue that it is false.

Matt: Sorry. I am just trying to finish my sentence. I think that when you don't

follow the license of someone who wrote something, it is disrespectful. Just like if I downloaded your software and distributed it free, that would bother you because it's something that you made and you distribute it under a certain license. If I violated that license, it would be disrespectful.

Number two, the second point, is that your business would be hurt somehow if people could, as you say, take your code and sell it for cheaper or something like that. Two parts, I think that undersells Thesis to an extent. I think that from what I've heard about people who like Thesis, it is much more than just a code and a theme it is the forums, the support, the community, and all the things around it that make it valuable. That is not something that someone in another country selling it for half-price is going to be able to duplicate because they don't have you.

Second, there's been every other premium theme developer and vendor in the world has already gone GPL and their businesses have been just fine. I mean, WooThemes, what did they say on the show, over two million per year, more than that. They're doing great. If you are worried about that, I would just look to the other people who paved a path there and have shown that people who aren't . . . my personal opinion, this isn't a legal GPL thing, just that people who don't want to pay for your code are going to pirate it anyway. Businesses, people building on you, people who want the part of the platform will pay because they want to support it. They want to see it continue to develop. Finally, there is this point you keep bringing up that innovation is going to stop because of WordPress' license . . .

Chris: I didn't say it would stop. I said that the license does not account for innovation outside the scope of whatever lawyerly review was conducted on the software at the time.

Matt: Well, I think that what's going on is that lots of innovation happens on WordPress. It's all within, everything that I have seen, is all within the scope of the license. You can have third-party services, I've build two of them now Akismet and VaultPress, which create value on top of WordPress and they are paid services. I remember at one point Viddler, which is a video hosting service actually used WordPress' user system as a base for their user system. There are all sorts of different ways that you can build on top of GPL software and create a really fantastic business. I just don't worry about that much. That's your primary concern.

Andrew: It does seem like . . .

Chris: I said it wasn't my primary concern. I stated that my primary concern was the fact that I would be violating something to myself. It's something that I would be, I would be adopting a stance that I just don't agree with. That I don't think is applicable to my situation. I would, in a sense, be personally fraudulent. I hold myself to that standard.



There is no way that I am going to operate in a manner that is incongruent with my character. You said all these other theme developers did that, that's suggesting a game of follow the leader. I think a brief examination of my history will show that I am anything but a follower.

Andrew: I think we have two different issues here. The one is the conviction and the other is the business. Let's talk just a little but about the business and then maybe we can find out, then I'd like to dig deeper into the conviction that you have, that you each have, that you are walking the right path here. Matt, I am looking at Thesis themes and he has a developer option here that allows developers to only install thesis on sites they own. If you were to go GPL developers, couldn't they just install it on any website that they wanted to? Then wouldn't that take a substantial amount of revenue away from Chris?

Matt: Well, they could do that now.

Andrew: You're saying legally they could, even though he doesn't believe that.

Matt: No, if they don't care about what he asks they could do that now. He could easily say, 'Well, we only support one site if you have this license,' or something like that. There are many ways you can do it. The fact of the matter is just that you create something fantastic that creates added value for people, you ask them for money and believe that they'll pay for it. Many other businesses, including the themes everyone else has developed for options and personal options, so I don't see that as a barrier.

Andrew: You would suggest that he offer this under GPL and basically sell the support, the forums, and the connection to Chris, but not sell the theme itself?

Matt: You could even sell the theme itself. There is nothing in the GPL that says it has to be free.

Andrew: But if it is GPL, couldn't I just take a copy of it and offer it free on my website without him being able to stop me?

Matt: Apparently, people are already doing that.

Andrew: You're saying people are already . . .

Chris: That's not an answer to the question.

Andrew: Could they, at that point wouldn't he be ceding his legal right to that, to stop them? Wouldn't he at that point be saying, 'Yeah, you could.' I am seeing that WooThemes does have that issue since you brought them up. I can get a WooTheme for free online. I can also buy it from other people other than WooThemes. There's a little bit

of confusion when you do a search for WooThemes whom you are buying it from. I can see some people buying it from someone who is not WooThemes and maybe even being a little but confused.

Matt: Sure. That would be a marketing issue. That could be a trademark issue. Let's say I was going to download Thesis. Let's say Thesis was GPL, and I was going to create Antithesis and sell it on my site. I wouldn't be able to call it Thesis because Chris still has the trademark to Thesis, I assume. Also, GPL does not invalidate your copyright. In fact, GPL is built on copyright. That's why if the GPL was not valid, no one would have the ability to use WordPress, because they wouldn't have a right because it would all be copyrighted by its developers. Copyright says that he could create other licenses if he wanted. For example, Movable Type is available under a GPL license but also available under a proprietary license. You could also create a separate license for the job descript images in CSS, which were determined not to follow under the GPL by The Software Freedom Law Center.

Andrew: I see. What do you think about that, Chris?

Chris: I mean, you know, we could talk all day about what applies and what doesn't apply. For me, the bottom line is simply the fact that at this point, there has been so much hot air around this issue for so long and this can't be understated or glossed over as if it is not true, my position in the market is pretty much at the top. I am the most visible person in this space. Everyone is gunning for me. Everyone wants a piece. If I open the door to letting other people profit off me, they are going to run and do that. Right now, tons of people are still profiting from my work and doing extremely handsomely. We have a lot more plans to enable these economies to develop around Thesis in the future. I want to help people make money. I do not want people making money off my good name and my good product, undercutting me, selling me for less out in the wild, and having the legal authority to do so. That's a poor business decision if you ask me. That's the only way to look at that.

Matt: You are very, very lucky that the developers of WordPress don't feel the same way as you do.

Chris: Why's that? Because WordPress exists and I'm able to use it?

Matt: Yeah.

Chris: I mean, I chose WordPress because it is the largest platform and has the least path of resistance to me and end user customers who are not familiar with any of these technical details, don't care about licensing terms, or anything like that. They just want a website that works.

Matt: Well, there are plenty of other non-GPL platforms out there. You could build on any of them and not have any issues with violating the license.

Chris: I guess my point in all of this is, if you are going to have a license, make it enforceable and enforce it. If you're not, then don't. This is all just a bunch of discourse over nothing. Actually, I think all that it's doing, what it looks like, is enhancing my position and importance within the marketplace, which would seem to be a counterintuitive goal for you. You'd be better off saying nothing and trying to take me to court or doing something undercover, behind the scenes, something. Instead, you chose to fight this thing out front that leaves many question marks on both sides of the fence. I am not saying anything outrageous here. I think a reasonable person would hear this conversation and be genuinely confused about the state of things. That's what I think. You know, what does that really say about this whole thing?

Matt: Are you saying you want to be a test case for the GPL? You want us to sue you? I mean, that would break my heart. I'd rather you be part of the family.

Chris: Right, you just want people to play ball exactly the way you want them to play. However, I am asserting that WordPress does not have some kind of sacred position in the marketplace. They are not the highest authority node up on the tree that gets to decide everything that happens underneath them. That's preposterous. I am not trying to do that with my customers. I am just telling them that they can't take my stuff, distribute it free, and violate my license. That's all I've said. I am not trying to enforce anything else. But you, you're trying to distribute your product in a free manner, to everyone, and then dictate who can do what one tier removed from your own authority note. I mean you're two tiers away. Two degrees of separation. That's unbelievable that you're trying to dictate out on those terms after having such a flimsy license to begin with, that's unenforceable.

Andrew: Let's hear their response to that.

Matt: Wait. For one, the GPL is on a flimsy license. It's what Linux is built on. It's the most popular license in all of open source software. I didn't write it. It was written in the 1980s. It is really quite strong. Two, you said that the only restriction you put on your customers, users of Thesis, is that they can't redistribute it. The only restriction WordPress puts on their users is that they can redistribute it and if they build something on top of it, it should also be GPL. That's just how licenses work. You can say whatever you want in your license. By someone using your software, they agree to it. You can say, 'You can't say anything bad about Thesis.' There is a constant management system . . .

Chris: Thesis is not an end user for software though. I don't repackaging WordPress to redistribute that as a download. It is a separate entity. It does not inherit anything from WordPress. It's preposterous. It inherits nothing.

You see, the thing that really is bothersome about this is now that we are hearing this issue, there is no resolving it, either you sue me or you don't, or you continue to talk or you don't, but the problem that I have is now you have all these trolls. All these WordPress people just slinging mud. They'll believe anything you say, Matt. You're an extremely, extremely high up authority figure in this market. Anything you say at all can be taken by somebody with fervor and spread around like a disease. You have an extreme responsibility to be accurate, factual, and to never overstep the boundaries of what you are saying because any of it can be used in a tortious manner, in just terrible ways that you probably never intended and certainly didn't have malicious intent to begin with.

Matt:           Of course . . .

Chris:           I think you could do a better job of handling that from the top. Look at these things from Andrew Mason just absolutely slamming me. He doesn't know what he is talking about, but he is a WordPress developer so they just say whatever supports their cause. This guy, Ryan C. Duff, just slinging all this mud. I don't deserve this. I don't deserve this at all, dude. I don't sling mud at you and say, 'Oh, you do all these terrible things.' Then have an army of people slinging mud at you saying that you don't understand, you don't do this, you don't do that. Put a stop to that. It's terrible, dude. I don't deserve that. I mean, you know what I'm saying. I developed an honest product. I've been honest with all of my customers.

I've done great things with WordPress since 2006. I have been arguably one of the top three most important figures in the history of WordPress. You, Mark Jaquith, and myself, are the three people that I am talking about. I just don't understand why you, in the position of authority you are in, allow it to be degraded to this little, ridiculous, personal level. You're fine with all these 'top WordPress developers' . . .

Andrew:         Let's give Matt a chance to respond to that.

Matt:           Thank you, Andrew, for jumping in there. Well, first of all, I'm struck by your humbleness in that you think you are one of the top three people to deal with WordPress. I would definitely point to the people who write the software that gets used hundreds of thousands to millions and millions of times, particularly the core developers, which Mason is one of, Mark Jaquith, Ryan Boren, who I think has 5000 connects to WordPress blocks. These people to me are the people who are the core of WordPress. Even in the premium theme market it looks like Thesis is under 10% of the premium theme market. There are just so many other alternatives out there that have really . . .

Chris:           I think that is a pretty impressive share considering how many premium themes there are.

Matt: Well, less than 10% of the premium theme market, which is less than 5% of the total WordPress user base, less than 3% actually. You are looking at like 0.3% on the very, very high end of users, and that's assuming that you have 50,000 to 100,000 users. There are 25 million WordPress blogs in the world. That's easy math to do. Two, I do recognize as a leader of WordPress a very big responsibility. That's why I reached out to Heather Meeker. I reached out to The Software Freedom Law Center. I reached out to the best minds that dedicated their lives to started the GPL, how it interacts with other software, how WordPress works, how themes works, etc., to give an opinion. Even though I had my own interpretation, I held off. I went to the experts to look at this issue. That's all. I've done my best to try to be accurate. I really do believe that the GPL applies to all themes in WordPress.

Chris: You accuse me of breaking the law publically, which I don't appreciate at all. It's not factual. It's not accurate.

Andrew: Let me ask each of you a question here. Matt, first of all, if Thesis is such a small part of the WordPress community as a whole and of even the premium theme community, can you just agree to disagree on this case and accept that he has a difference of opinion on this? Let him do business his way without confrontation?

Matt: I think the issue there is that, one, it's a violation of the license and if we allow someone to violate the license so blatantly, so publicly, and he is not being quiet. He does tell other people that GPL doesn't fly. That it doesn't matter. He's threatened . . .

Chris: When I'm asked. Because people keep asking.

Matt: They keep asking because it's a violation of the license and when you violate someone's license it is breaking the law. It's a definition of breaking the law.

Andrew; So, if he agrees not to discuss this issue publicly, would you agree to step away from the issue and just agree to disagree and continue to just each do business without each other?

Matt: I've recently started to, because, you know, Chris promotes these things by pointing to premium users like Laughing Squid, Matt Cutts, and such. I've recently started talking to these folks about why they chose Thesis.

Chris: Poaching my users basically. He just bragged earlier about how Laughing Squid left the platform. Matt, don't frame it like it is some generous thing that you're doing. You're trying to poach the top users. To hurt us from the top. Don't act like it is not calculated. Come on.

Matt: I'm not poaching. I'm not making money from these people. They just

weren't aware.

Chris: It's not about money, Matt. We both know that.

Matt: Excuse me. Let me finish. They didn't know about the GPL issue. You know, once they knew that it was in violation of WordPress' license, you know, this is obviously something that I think as more people are aware of the violation they probably might want to make a different choice with regards to the theme. If that could encourage Chris and all that seems to matter is the bottom line, if that could encourage him to respect WordPress' license that would be a great outcome.

Andrew: I see. Chris, here's a question I have for you. If you could be convinced that you can take possession of Thesis, or at least the key parts of it that make it Thesis, and have some control over where Thesis goes and how people promote it so that the example that I gave about WooThemes wouldn't apply to you. I couldn't set up a Thesis knock-off website. If you could be convinced that you could continue to do business under GPL, would you?

Chris: It's not that I think I can't do business under GPL.

Andrew: I mean, maintain your revenue and profits.

Chris: I think the license, the GPL, is at odds with how I want to distribute my software and what I want it to be. I don't think that it necessarily should inherit WordPress' license when over 99% of the code within Thesis is Thesis code base don the actual process of building a website. Certain processes that occur in nature can be describes mathematically by code. I am trying to describe it with code. I am describing a process that exists separate from WordPress or from any piece of software that deals with website development for that matter. It's its own thing.

Andrew: You're a businessman. Part of you doesn't want this. You don't want Matt to go out to The Laughing Squid. You don't want the threat of a lawsuit. Is there a way that you can adopt the GPL, be whole with yourself, and maintain your business? If there were, would you feel comfortable doing that?

Chris: Well, I said, it's as simple as I don't think that some license that I didn't come up with and don't really want to apply to my piece of software applies to this independent thing which is Thesis that exists, that I built. Why should I, I don't think the GPL applies. If I am just sitting here, in an insulated booth, in my own little world, I'm not dreaming up that the GPL should apply to Thesis and I don't want it to. That's what I am saying. It's not about, 'Can it work?' It might work. I don't want it. It's not how I chose to do it. I am free to choose. I have that right.

Andrew: But your choice depends on what is good for your business and it doesn't seem to make sense to continue to battle the WordPress community or at least to battle Matt's influence in it. Also, I know that you are a man of convictions; I've seen you say things on Twitter that I sat there reading and said, 'Well, why does he want to engage in that political argument. It can't be good for business.' But I realize, you know what, 'Chris wants to stand up for what he believes, even if it doesn't come across, even if it doesn't win him any new business.' You also have an open mind. If you could be convinced that this is the right thing legally, would you be open to it?

Chris: yeah, if I thought something was a better answer, absolutely. I am always open to that. The truth is, I had to think about this issue for a couple years now. I put a lot of thought into it. There was actually a time when I was pretty sure I was going to go GPL.

Andrew: Why? Why were you going to do it?

Chris: I believed that this whole concept of flow, there seems to be some gnashing teeth here between Thesis and WordPress. Obviously, it seems better for all parties involved if there is just a natural flow and no gnashing of teeth. A confluence of developmental direction and of what you're trying to achieve. It seems to me that would produce a better overall result in the end. However, however, I think any astute economic analysis of economic systems of the way businesses and economies actually work would very quickly notice that the GPL does some very inorganic things to what are otherwise organic systems. From a systemic standpoint, on a systemic level, I disagree with the way that the GPL perpetuates economies.

Matt: Andrew, do you mind if I address that for a second?

Andrew: Absolutely.

Matt: I just wanted to point out two examples. One of the premium theme developers, WooThemes, got involved with WordPress. I promote WooThemes all the time and they actually contributed code that later became WordPress 3.0's menu system, which now benefits the whole community, including Thesis.

Two, you mentioned Bryan Gardner earlier saying that the only reason that he switched was that he thought he would get more business or something like that. I think he did it because he thought it was the right thing to do. He did just Tweet out that he thinks that, 'StudioPress has higher sales now (being GPL) with 100's of competitors, than when Revolution wasn't GPL and had none. My sales have increased since I went GPL. I have zero regrets.' That's one of the original premium theme guys testify how his own business has gone. Chris is a very savvy businessman. I am sure he would do just fine and even better if I were able to point people to him.

Andrew: Chris, from a business point of view, does it make sense?

Chris: What, the GPL?

Andrew: For you to adopt it, yeah?

Chris: I don't know. I thought I just explained that in detail. I think that it produces skewed results in natural economic systems and I don't want to reproduce those skews into my . . .

Andrew: That's more of a political, macroeconomic answer. What about for your business?

Chris: I think that is how you conduct a proper analysis and chose what is good for your business. By seeing how systems work and what consequences are when you introduce inorganic things into those systems. When you introduce inefficiencies like the GPL on natural things.

Andrew: I see. Is this coming from a libertarian point of view?

Chris: I wouldn't say at all. I have no political affiliations like that at all.

Andrew: Okay.

Chris: I am just someone who is very interested in economics, economic systems, also in systems in general. Coding, the whole practice, is developing a system to describe another system. All the system thinking that I do has me on a constant search for more information about systems and really trying to understand how they work. I'm not claiming that I'm some kind of genius about systems. I'm not. I learn something new every day and it is fascinating and wonderful. When I encounter something like the GPL that seems contrary to many things that I have learned and experienced in my own life, yeah, I am going to be hesitant to adopt it because my learning and my experience suggest otherwise.

Matt: I don't know how to respond to that because I don't entirely understand what it meant. But I can point to the examples in WordPress. My own business brings in millions of dollars to WordPress businesses, many hundreds millions of dollars if you include the webhosts all complaint with the GPL. Base don that data the GPL is not incompatible with flourishing business.

Andrew: It seems, Chris, to violate your sense of right and wrong. Do I have that right?



Chris: Yes, but it's not so much like a right and wrong in the context that most people get it. I just think it's not the right way to set up a business and an economic system. It's not like I think that, you know, this isn't some moral debate. I just wanted to make sure that everyone understands that it is definitely not on those grounds at all.

Andrew: What would it take to convince you to adopt it?

Chris: I mean, like I said, Andrew, I think the GPL is something that is artificial and improper to induce upon a system. I don't think it is a good thing. Nothing is going to convince me to do something that I think is a bad idea. Nothing.

Matt: Well, then why build on a GPL platform. If you're right than WordPress is going to go away and go out of business soon. Why not pick something that wasn't GPL?

Chris: Well, that may be true but number one, I've been building on WordPress for a long time. Number 2, WordPress has the huge market presence that you talked about. Its like, do you want to release a video tape for Beta or VHS? The smart one is for VHS. Regardless of what I think about that.

It pays to mention, when I started Thesis. I didn't know about any of this. I wasn't prepared for all this. This has grown and this issue has grown, as this has happened I was already on WordPress. I don't want these problems. I just wish everybody would be quiet about the issue. However, now that we, you know, have come to the point where we are, I understand more about the situation, others understand more about the situation, we'll be able to make some educated choices about the future. What reasonable business person is going to say, 'I no longer agree with this,' and just cut the umbilical cord like that when you have thousands and thousands of customers. No one would do that. I encourage a little bit of sympathy and understanding for my position and exactly why I haven't taken some sort of brash action. I'm trying to think about everyone involved here.

Andrew: You're saying, this is your livelihood and you can't do that to your livelihood.

Chris: Well, I'm not going to do that to the people who are relying on me to provide them with solutions.

Andrew: You talked in your interview about all the people who are depending on Thesis and the company behind it.

Chris: Yeah. Right. Exactly.

Andrew: Matt, so if he doesn't back away from his position right now. You're not

going to sue him. Right? You don't want to sue a member of the community. You don't want to sue someone who is so well known and loved in this space. Do you?

Matt: I really hope it doesn't come to that.

Andrew: Does that mean that you are thinking of doing it?

Matt: Well, if in the WordPress community people started deciding that the GPL doesn't apply that's a very, very slippery slope. Not just for WordPress but for all of open source. Like you said, there hasn't been a court case yet in the United States because every company, including big ones like Cisco, have backed down. If Chris wants to be the court case that proves the GPL, I am sure there are many people in the open source community that would love that opportunity.

Andrew: What's your position? Do you want to do this? Are you thinking of doing it?

Matt: I wasn't before. However, it sounds like Chris, like a business argument isn't going to change his mind. It sounds like, you know, all the legal analysis from the biggest experts in the world isn't going to change his mind. Chris has just decided that the license doesn't apply to him and so he shouldn't have to care about it. That's breaking the law.

Chris: I mean, you know, when I was in college in Georgia apparently it was illegal, in the Georgia State Doctrine, it was illegal to get a blowjob in the State of Georgia. But that's one of those laws that's never enforced. That brings up a valid question. What kind of law is it if it I unenforceable?

Matt: I think it's the same kind of law that . . .

Chris: Is a license a law? I'm not familiar that it's a law. I know it's a license. I didn't know it's a law.

Matt: It's law. It's the same law that you feel protects your work and your license and the distribution or not distribution of Thesis. Yes. I think it is completely valid. It is also important on behalf of the WordPress community that has invested thousand of man-years in creating software under this license. It would be disrespectful to all of those people who consciously chose to be involved in a project that used a GPL to say that the GPL doesn't matter, it can be violated, and it isn't enforceable.

Andrew: Chris, what do you think about that? The threat of a lawsuit isn't something that you want in your business. That would also threaten your business and the people who depend on it.

Chris: I'm not worried about threats. That doesn't motivate me or sway me one way or the other. If it happens, it happens. I mean, I'm ready. I've accepted the position that I'm in. I've found peace with it. I feel comfortable with my method of operation and where I stand. If it happens, it does. If it doesn't it doesn't. I don't really care.

Andrew: If you could be convinced that this is the right way for your business and the right away in general, would you change? Would you make this change?

Chris: What? To go GPL?

Andrew: Yeah.

Chris: I've explained it so many times. No.

Andrew: No.

Chris: until I look at this and see or think and realize that there may be some kind of true distinct advantage without long-term problems and other things then I might. But at this time, I think my method of operation is exactly congruent with my feelings about everything. I feel good. I am operating in a method that is harmonious with my existence and everything it has been about up to today.

Andrew: Chris, that's, I'll tell you why that's hard to hear, because it sounds like what you're saying to Matt is, 'Unless you guys come at me full force, I don't have enough incentive to change and I don't want to change. I'm not going to.'

Chris: I mean, I guess that's that if you're going to be upset about something and say that somebody is breaking the law and whatnot I suggest you back that up with some real action. Otherwise, it's just idle threats.

Andrew: Chris, why are you saying that? You're saying, 'Sue me.'

Chris: I'm not saying, all I am saying is that if you are going to hurl accusations you should back them up. All I am saying is substantive evidence. Every empirical claim should be and must be backed up with actual evidence and facts or it is based on nothing. It is nothing more than rhetoric. I don't have time for rhetoric. I have time for action.

Andrew: I see. So, you want a settlement to this issue. It sounds like Matt wants a settlement to this issue. You are both thinking that the best way to do it is with a court case. If not a court case, it doesn't make sense to keep having conversations and discussions like this.

Chris: I agree. I don't think anybody said that.

Matt: I would love for Chris to just use the GPL. Everyone else in the WordPress community already complies with the license. It's not like this is some weird niche interpretation of the GPL. This is what the entire legal community believes except for one guy in Florida. I would love for Chris to just come on over.

Chris: That's another irresponsible statement from you, Matt. That's not what the entire legal community believes. How can you even make such a claim? You have to start checking what you're saying because of your position. You have to. It's your responsibility.

Andrew: Do you want to give another example or two? I think someone else in the audience was asking for it?

Matt: I forgot that you were one of the top three people in WordPress and that I should check with you before I say anything. Just in general, or. . .

Andrew: No, that's not necessary. Chris, do you want to bring up another person so that we're not just left with that one lawyer? Do you have any other persons at your fingertips that you can bring up? Another legal name.

Chris: I think there have been a lot of posts.

Andrew: Okay.

Chris: I don't have anything right this second pulled up.

Matt: I'm going to point to the three organizations, the Free Software Foundation, which is the creator of the GPL. They wrote the GPL license and have been at the center of it for 20 to 30 years now. I will also point to the Software Freedom Law Center, the pro bono lawyers behind every single GPL case that has ever happened. Third, Heather Meeker who is the chief counsel for Mozilla, an intellectual property attorney, dealing with intellectual property and open source for at least a dozen years now.

Andrew: Would you two be willing to have a private conversation about this with the goal of not letting the other person know what your point of view is and why it is right, but the goal of trying to find a way where you can both live together comfortably?

Matt: I would just want to say that I've tried to contact Chris privately before. I would happily promote Thesis, send people to Thesis, and love Thesis, whatever. I'd switch my own site to Thesis. Just come over to GPL. It's not hard.

Andrew: Would you switch your own site to Thesis with a link to Thesis if Chris went GPL?

Matt: [laughs] I really said that, didn't I?

Andrew: Sounds like you would. Chris, now you have a business decision to make. Does that make enough sense for you? Does the traffic and the reputation that comes from that help?

Chris: Well, Andrew, the thing about that, there is no incentive that incentivized me to do anything. My decisions come from within. My motivation comes from within. I don't care what anyone does. I don't care if the whole world sets me up and says, 'You're president of the world now,' because it doesn't matter to me. All that matters to me is how I feel inside, and I don't feel like it's right for me or my business. That's all.

Andrew: Okay. All right. Then I don't think it's fair for me to try to make you change that point of view. What I was trying to do here was bring the two of you together and if I couldn't do that to at least give you an open forum to express how you honestly feel. I think we've got how each of you feels. I think we did it in a way that shows respect for the other person's point of view and at least the ability for the other person to express that point of view. I think we accomplished what we set out here to do. At least, well, we didn't accomplish my big goal, which was bringing the two of you together, but at least we did allow each of you to say where you stand.

Final word, Chris. Then final word, Matt.

Chris: Nothing. I appreciate you having this interview, Andrew. I think that many people in the community are going to appreciate that. I think that it's good to have this kind of live interaction. Matt, I appreciate you. I definitely appreciate you coming on here today, too. I think that just sharing information and being honest instead of all these one-sided things where somebody says something terrible over here and others re-tweet that and all this bad information is perpetuated, to have a self-contained conversation like this, where details can be hammered out seems to make a lot of sense. I appreciate that as somebody who just wants honest information to be out there. I don't want Matt to be being hammered by people who are fans of me. I don't want to be hammered by his fans. I think that everybody should be able to behave in a respectful manner and get the facts straight, or at least get some information in a forum where it makes sense. I think you've provided that. I think that's wonderful. Thank you.

Andrew: Thanks, Chris. Matt, final word?

Matt: I think that the facts basically come down to three basic things. One, going GPL is the right thing to do. You don't want to be at odds with the platform that your

entire business is built on. Like I said, WordPress is a very large community. That's apparently why he chose it as opposed to a different platform. However, when you chose software, you abide by its license just like you would want people who use Theis to abide by its license. Second, I believe it is the legal thing to do. Some of the best legal minds have looked at this issue, at WordPress, and at Thesis and have decided. Three, I just think it is good businesses. Many other businesses made the switch. You have direct analogs to what Chris could do here. In addition, back to the first point, you want to be aligned with the platform you built on. In summation, those are the three things I believe. Again, thank you Andrew for bringing together this special.

Andrew: Thank you both, Matt and Chris. Thank you both for coming here and talking about this. I was really hoping that I could bring the two of you here and have some kind of understanding that would work for both of you, but as I said, if we can't have that at least we had a discussion where you could each express your point of view and we could all learn from it. Thank you guys.

Thank you all for watching and listening. Bye.

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