

# Jacobsen Declaration Exhibit D

Date: Tue, 07 Sep 2004 22:24:34 -0700  
From: kam\_loconet <kam\_loconet@kamind.com>  
Subject: RE: [loconet\_info] Re: Loco buffer question  
To: loconet\_hackers@yahoo.com  
Reply-to: loconet\_hackers@yahoo.com  
Delivered-to: mailing list loconet\_hackers@yahoo.com  
Thread-topic: [loconet\_info] Re: Loco buffer question  
Mailing-List: list loconet\_hackers@yahoo.com; contact  
loconet\_hackers-owner@yahoo.com  
X-eGroups-Remote-IP: 204.245.211.235

Bob..

>We don't even require the clients to ship source with there product,  
nor  
>do we restrict third party developers from incorporating KAM source  
code  
>samples into their commercial product.

>If this is a comparison with JMRI, it's a spurious one, as you  
>already know from our previous conversations. Neither the  
>"requirement" nor "restriction" you mention is present; the evidence  
>is the JMRI-based commercial products who are shipping without doing  
>either.

What you also need to do is add some more info to your comments.

1. JMRI license agreement requires them to ship source, and dictates what can be charge.
2. Who ever ships the JMRI product is liable, unless all the JMRI developers agree to indemnify any persons (or person) who is distributing the JMRI under their companies label.

So in essence JMRI, while containing some good ideas from an educational perspective, is not a commercial product, because (1) you restrict how the product is distributed and package, and (2) you do not indemnify persons (or person who distribute the JMRI code.

Since we managed to get in this issue of "what is open or what is not open", you really need to bring all of the issues on the table. JMRI is no more open then anything else on the net. Patent infringement is no different then stealing.

I am not saying JMRI does infringe or doesn't infringe -- I really do not know.

Maybe I know too much, or I am very risk aware, but I would not bet my company on shipping something that no one takes legal responsibility for.

So before you call JMRI open, you need to really understand what opens means and legally stand behind the "product" and what commercial really means.

With KAM's software, we use our own technology or we have license agreements with rights of distributions. Those are the things you need to make a commercial product.

Matt k.

www.kamind.com

----- Yahoo! Groups Sponsor ----->  
Make a clean sweep of pop-up ads. Yahoo! Companion Toolbar.  
Now with Pop-Up Blocker. Get it for free!  
<http://us.click.yahoo.com/L5YrjA/eSIIAA/yQLSAA/YSTolB/TM>

Yahoo! Groups Links

- <\*> To visit your group on the web, go to:  
[http://groups.yahoo.com/group/loconet\\_hackers/](http://groups.yahoo.com/group/loconet_hackers/)
- <\*> To unsubscribe from this group, send an email to:  
loconet\_hackers-unsubscribe@yahoogroups.com
- <\*> Your use of Yahoo! Groups is subject to:  
<http://docs.yahoo.com/info/terms/>