The Great Linux EULA Controversy

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Some readers may be aware that Paul McNett's column in March of this year ("Running Visual FoxPro on Linux") stirred up quite a hornet's nest. For those of you who hadn't heard, here's a quick rundown on the events that transpired after the article showed up on desks at Microsoft, and the current state of affairs.

The Initial Phone Call

I had been doing presentations at conferences and user groups throughout the spring talking about Linux, and demonstrating Paul's material. In early April, I was in San Francisco, ready to do the presentation at the Bay Area Database Developer's meeting. Just before the meeting, I was having dinner with Paul when my phone rang. Ken Levy was on the other end of the line; he had just seen the article in FoxTalk and told me that it was violating the EULA for both Visual FoxPro 7 and 8. This sort of surprised me as conversations about these efforts had been going on in public for a couple of months, on forums that the Fox team at Microsoft regularly participated on.

Since my mouth was full of food at the time (please don't tell my kids I was talking with my mouth full), I didn't have the presence of mind to ask for details, and Ken didn't offer any clarification. I did ask Ken for a confirmation of exactly what activities were and were not in violation of the VFP EULA in writing, by the Microsoft legal department.

An hour later at the Bay Area meeting, I mentioned this call at the meeting as the explanation for why I wasn't going to actually show VFP running on Linux that night. One of the attendees was furious, and posted an irate message on the ProFox mailing list. This posting generated a firestorm, and it was carried over to two other popular Visual FoxPro forums, the Universal Thread and the CompuServe forums. I didn't find out about all of this for a couple of days because I was still out of town, attending a conference.

Shortly after the posts started appearing on the various forums, Ken called two other well-known VFP developers, Ted Roche and Ed Leafe, and told each of them that running VFP as a development environment was not prohibited by the EULA. Rather, it was the distribution of VFP applications on Linux machines that was targeted by the EULA. The EULA requires that the "Distributables" (defined in a separate file that's part of the Visual FoxPro installation) could only be used "in conjunction with the Windows operating system". As I understood, Ken said to Ted and Ed (from my conversations with Ted and Ed - and, of course, any conversation repeated third-hand is subject to misunderstanding, thus my request for having all of this in writing) that you couldn't distribute your compiled VFP application and the VFP runtime libraries to a Linux machine because this would bypass the requirement for a Windows OS to be in the vicinity. He did say, however, that you could distribute the app to Linux machines if each of those machines had a fully licensed copy of VFP on it.

When I returned on Monday, April 14, there were, well, a "lot" of messages waiting for me. Phone calls, emails, forum postings. It took a while to sort them all out, and I was headed to Denver in a couple of days for another presentation.

The Email to Microsoft Requesting Written Confirmation

I hadn't heard anything from Microsoft since the previous Wednesday, so I figured I'd better set things straight, and I wrote a long, detailed email to Ken and other members of the Fox team and other involved parties at Microsoft (a copy is available with this month's Subscriber Downloads), and posted the email to the ProFox mailing list and the Universal Thread so that everyone interested in the issue was kept abreast and had all of the facts. I requested an answer by the following Monday (April 21.) A few hours later I heard back from Ken, saying that a response was being worked on and while they weren't sure they'd have it done by Monday, they'd try.

There were three technical questions I'm wondering about with respect to the VFP EULAs.

Running the VFP Development Environment on Linux. The first thing we - Visual FoxPro developers - want to be able to do is run VFP as a development environment on a machine running the Linux operating system. This endeavor was the gist of McNett's FoxTalk article and was the activity that Levy declared was a violation of the VFP 7 and 8 EULAs. However, Ken has since backtracked on this, stating that a developer could use VFP on a Linux machine as long as they had a separate licensed copy for the Linux machine.

Deploying Custom VFP Applications on Linux Workstations (Part I). According to verbal conversations with Ken Levy, the VFP 7 and 8 EULA requires that any "Distributables" (defined in REDIST.TXT, available as part of the VFP development environment installation) could only be used on Windows. Like other programming languages like C, VB, or Delphi, VFP is a development system that is used to build custom programs. The result of building an application is a .EXE file. By itself, this .EXE file doesn't do the customer or end-user much good. It must be deployed to end-user machines in combination with runtime files (or libraries) that know how to interpret and execute the code in the EXE.

For many years, Fox developers have been able to include their EXE and the runtime libraries (typically, a series of .DLL files) in a single package for installation and use on an end-user's machine. In the earlier versions of FoxPro and Visual FoxPro, the installation was simple - just copying the files to the target machine. In more recent versions, Microsoft has included a variety of mechanisms and tools that did the installation automatically. The latest version of Microsoft's installer tool, the Windows Installer, relies on a series of files embodied in MSM files for installation. It is these MSM files that are listed in REDIST.TXT, not the specific Visual FoxPro DLLs.

Thus, it is technically possible for a Visual FoxPro developer to deploy their application without the use of Windows Installer technology – this hasn't capability hasn't changed. Thus the MSM files (and the others in the REDIST.TXT file) aren't needed to be used by Visual FoxPro developers. My first question regarding deployment, then, is whether or not this method - distributing custom EXEs and the VFP DLLs to customers - like VFP developers have been doing for nearly a decade – has been taken away by the recent EULAs. If it is allowed, then the issue is moot. But it doesn't appear that this is the case. If it's not - if VFP developers must use Windows Installer technology to deploy their applications as of VFP 7, then there are two further issues that must be raised.

(1) There are a number of installer products in the market that do not rely on Windows Installer technology to do their installations. It would then appear that each of these tools is in violation of the VFP EULA. Is this indeed the case?

(2) Why the sudden change from VFP 6 to VFP 7 without any sort of announcement? Normally, when a change in a product would affect a mechanism as critical as deployment to customers is made, that change is announced in the "Read Me" or "What's New" notes that accompany a new product release. But this was slid into the EULA without ever being mentioned anywhere else. Why was this critical change buried deep inside a multi-page EULA and never mentioned anywhere else?

Deploying Custom VFP Applications on Linux Workstations (Part II) - OK, suppose that the VFP EULA prohibits the simple deployment of EXEs and DLLs, instead, requiring the use of Windows Installer technology, MSMs and the whole smash. And thus, in order to deploy a VFP app on Linux, a licensed copy of VFP must be installed on each Linux workstation.

The question is.... is this truly the intent? Is this legal? This feels like Microsoft is tying their applications to their operating system, a stance that would raise eyebrows in many areas. Just because the EULA apparently demands so doesn't mean that it's legally enforceable. But how many independent VFP developers have the money to take on this sort of legal challenge? So my third question was a flat out request about whether Microsoft is attempting to tie their VFP applications to the operating system.

The Answer from Microsoft

On April 27 at the Essential Fox conference in Kansas City, Ken gave me a business card with a URL that pointed to Microsoft's answer to my email. The URL pointed to a hidden web page on Microsoft's GotDotNet website. The response was this:

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Visual FoxPro was designed and tested for use in creating applications that run on the
Microsoft Windows platform; the same applies to the components that are provided to
developers for redistribution with Visual FoxPro-based applications. If a developer wishes
to distribute the Visual FoxPro runtime with an application, the runtime may only operate
in conjunction with a Microsoft Windows platform. As with any contract, you should seek
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your own legal counsel' s advice when interpreting your rights and obligations under the
Visual FoxPro End User License Agreement.
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He also posted the URL on the Universal Thread and stated that Microsoft would not discuss the issue further. When asked who put this response together, he said, "This response is from 'Microsoft' and that's all I can say."

Since then, between continued traveling and the end of school activities, I haven't had much time to do more work on this matter. No one has heard anything further from Microsoft either.

So Where Do We Stand?
The ancestors of Visual FoxPro, FoxBase and FoxPro, as well as all versions of Visual FoxPro itself have held a significant competitive edge against the other companies in market for desktop database applications because they don't require licenses for the runtime libraries. Back in the late 1980s and early 1990s, this was a major difference between dBASE and FoxPro applications - the customer didn't have to pay a license for each end-user using a custom application.

This has continued with Visual FoxPro and Windows - you can build a VFP application and distribute it to literally thousands of users without the payment of additional license fees to Microsoft, and that makes a VFP application an excellent solution to a wide variety of business problems. Microsoft has long ignored Visual FoxPro precisely because of this diversion from their business model - they would much rather have an application developer use Visual Basic for the interface and SQL Server (which requires licenses for each user) for the database - more lucrative for Microsoft, but more expensive for the developer and the end-customer.

The possibility of Visual FoxPro applications running on Linux is an even more attractive proposition for customers. First, you have an inexpensive (or free) operating system that is widely regarded as more robust and more secure than Windows. Next, you have an inexpensive and incredibly powerful development tool (that would be Visual FoxPro, for those of you who aren't paying attention.) Match those pieces with an inexpensive (or free) backend database – MySQL costs $399 per server; a comparable license for SQL Server or Oracle runs in the tens of thousands of dollars – and you have a combination that makes a lot of sense for a lot of organizations.

And it's easy to see why Microsoft would try to fight it and impose a different licensing restriction - to harm the attractive economics of VFP/Linux solutions for customers, in order to line their pockets further. As a result, they're bound and determined to fight the deployment of Visual FoxPro applications on non-Windows operating systems.

Microsoft has undertaken a decade-long campaign to gradually shrink the FoxPro community through repeated "accidental" marketing missteps and a regular campaign of appeasement, talking only to the community but pretending the product doesn't exist to the outside world. This danger of the FoxPro market growing again, and on a platform that they don't control, has to be their worst nightmare.

That said, I found their response to be very interesting. I asked three simple questions, yet they still gave me the runaround. Let's look at what they actually said.

First, by placing the response on a page that can't be reached from anywhere else on any Microsoft web site, they effectively hid the information from people who didn't have the exact URL. Why are they trying to hide this information?

Second, the response didn't refer to my original email or the questions in it. Why not? Are they trying to pretend the issue doesn't exist?

Third, the response didn't have a date on it, nor was it signed, nor did it have any type of attribution whatsoever – again, why not? Please find one other page on a Microsoft web site that doesn't have both a date and a copyright notice on it, to indicate that the information is Microsoft's property. Perhaps they are setting up the response to be deniable in the future? "Oh, that's not from US! Some hacker must have defaced our website."

Finally, the response didn't answer my questions. All I was looking for was a simple 'yes' or 'no' to each of my questions. It would have been a lot simpler to answer than to resort to some vague statements that could be interpreted even more broadly than the EULA that caused the original confusion. Let's take a look at what they actually did say.

`Visual FoxPro was designed and tested for use in creating applications that run on the Microsoft Windows platform; the same applies to the components that are provided to developers for redistribution with Visual FoxPro-based applications.`

OK, that makes sense, and there's no argument with it. But it's rather obvious. It's statements like these that caused the word "Duh" to come into daily use. I don't think anyone expects Microsoft to test or support their Windows applications on operating systems that are not listed as part of the system requirements on the box. This is just like using any type of device in a manner for which it was not intended – the warranty becomes void. No argument here. But it's not what I was asking. I was asking if using VFP or the runtimes on a Linux operating system is LEGAL, not if they'll support such a use.

`If a developer wishes to distribute the Visual FoxPro runtime with an application, the runtime may only operate in conjunction with a Microsoft Windows platform.`

Let's cut to the chase right here. What the hell does 'in conjunction with' mean? This is technical stuff. There are explicit technical explanations and instructions all throughout the rest of their EULA. So what's the deal with this inexact phrasing here?

Does 'in conjunction with' mean that the runtime has to operate on a computer whose CPU is running a Microsoft Windows operating system? Or maybe it means that the runtime has to operate on a computer that has the Microsoft Windows operating system loaded onto the hard disk and is available to be run via a choice in the boot loader. Or maybe it means that the runtime has to operate on a computer that is connected to another computer whose CPU is running a Microsoft Windows operating system. That might mean a configuration that involves Terminal Server or Citrix.

Or maybe just having another computer on the network that's running Microsoft Windows is good enough. What kind of network? A local area network? A wide area network? Or another type of network, perhaps an INTERconnected NETwork? So suppose the runtime was running on a computer that was connected to another computer on the Internet, and that second computer's CPU was running Microsoft Windows, would that satisfy the 'in conjunction with' terminology?

Or maybe all you have to do is go out to Ebay and buy a copy of Windows 95 for $1.99, and use the CD to prop up your system unit that's running your VFP app, the runtime, and Linux. In this case, the runtime would be definitely be operating 'in conjunction with a Microsoft Windows platform'.

The rest of their EULA has very explicit descriptions of what is and what is not allowed. Why is this issue being covered with weasel words? Why use vague terms when there are perfectly clear ways of saying what you want to say?

There are three reasons to be vague. The first is when you don't understand the question, and thus have to resort to waving your hands because you don't know how to answer. You see this in computer stores all the time, right?

The second is when you don't want to answer the question.

And the third is when you want to confuse the issue. Which of these three do you think is the reason Microsoft chose to provide a vague and thus potentially misleading answer instead of simply answering my questions?

`As with any contract, you should seek your own legal counsel' s advice when interpreting your rights and obligations under the Visual FoxPro End User License Agreement.`

I see. So Microsoft is telling their customers that they're not going to answer their questions about their EULA, but, instead, the customer has to hire a lawyer to do so. How many companies can afford to treat their customers with such disdain? Do you want to do business with a company that has such an attitude?

I don't.