

# React.js: is Facebook going to sue me?

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React (also React.js or ReactJS) is an open-source JavaScript library developed and maintained by Facebook. React was originally open-sourced in May 2013 with a standard Apache License 2.0. However, in October 2014, this was replaced with a new licence including a controversial patent clause.

The patent clause was updated in April 2015 to be more permissive and less ambiguous. However, controversy remains over what ramifications users of React could face.

## The patent clause

The current React patent clause is set out below:

*"The license granted hereunder will terminate, automatically and without notice, if you (or any of your subsidiaries, corporate affiliates or agents) initiate directly or indirectly, or take a direct financial interest in, any Patent Assertion: (i) against Facebook or any of its subsidiaries or corporate affiliates, (ii) against any party if such Patent Assertion arises in whole or in part from any software, technology, product or service of Facebook or any of its subsidiaries or corporate affiliates, or (iii) against any party relating to the Software. [...] A "Patent Assertion" is any lawsuit or other action alleging direct, indirect, or contributory infringement or inducement to infringe any patent, including a cross-claim or counterclaim."*

## What does this mean?

In short, this clause means Facebook can revoke the licence of any React user that initiates (or has a financial interest in a party that initiates) a patent infringement lawsuit against Facebook and its subsidiaries, or against any other party if that lawsuit arises from Facebook's software or technology.

## Is this fair?

That depends on your perspective. Facebook's position is that it has created something of value which it has put into the public domain by open-sourcing it. It could always have charged people to use React, but instead it chose to put a licence condition on the use of React that carries ramifications that most open-source licences do not. From Facebook's perspective, it is being generous in open-sourcing React, but at the same time has also taken steps to protect itself from legal action.

The perspective of React users is of course different, because the React licence means that React is not really a true open-source code.

At the end of the day, it's Facebook's intellectual property and they can do whatever they want with it. From their point of view, if you don't like the licence terms, then don't use React.

## What happens if my licence is revoked?

If Facebook revokes your licence to use React, and you stop using React (including in any products

previously developed using React), then you have nothing to worry about.

Of course, if your license is revoked and you continue to use React (including in any products you developed using React prior to the revocation of your licence), this could leave you open to Facebook levelling an accusation of patent infringement against you. However, this assumes that:

- Facebook has a patent for React;
- that patent is valid; and
- what you are doing falls within the scope of the patent.

If even one of these criteria is not met, then there is nothing to worry about.

## **How do I keep my React licence?**

The simple answer is, don't bring an action against Facebook or its subsidiaries (or any other party if that action arises from Facebook's software or technology) for patent infringement.

If legal action of this type looks like a possibility, then (as with any legal action) a commercial decision needs to be made as to whether the positive benefits of such an action outweigh the negative, including the revocation of your React licence. If they do, then the revocation of your licence may end up being nothing more than a minor inconvenience.

## **Other issues**

There is a further issue for small businesses to consider. While your company may currently be too small to even consider commencing legal action against Facebook (in which case there should be no possibility of your React licence being revoked), issues can arise if your company is ever bought by a larger entity that could, in theory, have the resources to take on Facebook in a legal battle. If any products that form part of the sale to the larger entity make use of React, then the potential risk of the revocation of your React licence could negatively impact on the value of your company.

Whilst largely a theoretical risk, it is still an issue that startups and small businesses could possibly face and should bear in mind.

For more information or discussion, please contact HopgoodGanim Lawyers' [Intellectual Property](#) team.

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