

## **SFLC.in Proposal Submitted for ChennaiFOSS 2026**

### **Title**

***Software Patent Regulation in India:  
A 2026 Retrospective from a FOSS Perspective***

### **Format**

Devroom Talk

### **Abstract**

For Free and Open-Source Software development, the regulation of software patents is not merely an abstract, legal question of patentability. How patents for software are granted present a real and direct constraint on how software can be written, shared, modified, and deployed. In India, Section 3(k) of the Patents Act was intended to safeguard this space by excluding “computer programmes per se” from patentability. However, over time, administrative actions like the various CRI Guidelines released by the Patent Office, and various judicial pronouncements, have steadily reshaped the boundaries of this exclusion by borrowing from foreign jurisprudence, showing a clear deviation from the legislative intent to protect domestic innovators against “[a monopoly of multinationals](#)”.

This talk will examine the current state of software patents in India through the lens of FOSS, with particular focus on the 2025 Computer-Related Inventions (CRI) Guidelines. Drawing from [SFLC.in’s work on software patents over the past decade](#), the session will interrogate whether recent developments are effectively expanding the meaning of patentable software through expansive, fragmented legal tests such as “technical effect” and “technical contribution,” and what the impact of these tests are

on the community-driven FOSS development ecosystem in the country. The session will also highlight [the role of the FOSS Community](#) in successfully campaigning against software patent deregulation in the past.

The talk will conclude by opening the floor to the community and inviting developers and other valued members to share experiences, emerging concerns (including around AI/ML), and strategies for navigating an increasingly ambiguous patent landscape, to establish deeper connections for potential collaborations, and to coordinate on community-led responses to state action.

### **Why this matters for the FOSS community**

- Patent thickets; Risks to interoperability, reverse engineering, and collaborative development, which are cornerstones of FOSS development
- Barriers for startups and independent developers working within the country
- Strategic use of patents by large firms who have the capacity and resources to litigate all claimed patents

### **Target Audience**

- FOSS developers and contributors
- Startup founders and engineers
- Students and Educators
- Anyone interested in the intersection of intellectual property and software freedom

### **Key Takeaways**

- A grounded understanding of how Section 3(k) operates in practice;
- A [critical reading of the 2025 CRI Guidelines](#) and their implications;

- Awareness of legal risks and strategic considerations for developers;
- Creating avenues for collaboration with diverse stakeholders to support our ongoing work on Software Patents, including advocacy, policy, and community response.
- A space to share community knowledge and lived experiences.

### **Resource Person**

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### **About [SFLC.in](https://www.sflc.in)**

SFLC.in is a donor supported legal services organization that brings together lawyers, policy analysts, students, and technologists to protect freedom in the digital world. SFLC.in promotes innovation and open access to knowledge by helping developers make great Free and Open-Source Software, protect privacy and civil liberties for citizens in the digital world by educating and providing free legal advice and help policy makers make informed and just decisions with the use and adoption of technology.