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CLIENT ALERT

Supreme Court Rules in Favor of Google in Multibillion-Dollar API Copyright Dispute

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On April 5, 2021, in a highly anticipated decision concerning a copyright clash over Java SE application-programming interfaces (APIs), the Supreme Court ruled in a 6–2 decision that Google's use of 11,500 lines of declaring Java code constituted "fair use" because Google used only the amount of code necessary to transform the work into "a highly creative and innovative tool for a smartphone environment"—in this case, the Android mobile operating system. *See Google LLC v. Oracle America, Inc.*, No. 18-956.

This decision comes in the wake of almost eleven years of complex litigation and implicates two of the limits in the current Copyright Act. First, the Act provides that copyright protection cannot extend to "any idea, procedure, process, system, method of operation, concept, principle, or discovery." 17 U.S.C. § 102(b). Second, the Act provides that a copyright holder may not prevent another person from making a "fair use" of a copyrighted work. § 107. In the first instance, the district court held that the Java code was a "system or method of operation," which copyright law does not allow to be copyrighted. On appeal, the Federal Circuit reversed, holding that both the API's declaring code and its organizational structure could be copyrighted, and remanded the case for another trial on the question of fair use. *Oracle*, 750 F.3d 1339, 1354 (Fed. Cir. 2014). Google unsuccessfully petitioned the Supreme Court for a writ of certiorari, seeking review of the Federal Circuit's copyrightability determination. *Google, Inc. v. Oracle America, Inc.*, 576 U.S. 1071 (2015). On remand, the jury found that Google had demonstrated fair use. Oracle again appealed to the Federal Circuit, which assumed all factual questions in Google's favor but held that whether those facts constitute a "fair use" is a question of law, not a question of fact for the jury. 886 F.3d 1179, 1193 (Fed. Cir. 2018). Deciding that question of law, the Federal Circuit reversed, holding that Google's use of the Java API was not a fair use. Google then filed a petition for certiorari, asking for review of the Federal Circuit's determinations as to both copyrightability and fair use. The Supreme Court granted review.

Justice Breyer delivered the opinion of the Court and was joined by Chief Justice Roberts and Justices Sotomayor, Kagan, Gorsuch, and Kavanaugh. Justices Thomas and Alito dissented. The newly appointed Justice Barrett did not participate in the decision.

With regard to the first question presented—whether the APIs were copyrightable in the first place—the Court chose not to address this question because of "rapidly changing technological, economic, and business-related circumstances."

With regard to the second question—whether Google's use of part of the Java API constituted "fair use"—the Court held that it was "fair use" as a matter of law. Walking through the history of copyright law's application to computer programs and disavowing an "all or nothing" approach to copyright law, the Court emphasized that "by defining computer programs in §101, Congress chose to place [the Java API] within the copyright regime" and noted that exclusive rights in computer programs, just like any other type of work, are limited. The crux of the Court's opinion lies in its conclusion that APIs are different from other kinds of computer programs. Justice Breyer wrote that "unlike many other computer programs . . . the value of the copied lines is in significant part derived from the investment of users (here computer programmers) who have learned the API's system." By using the API to let Java programmers build Android apps, Google's approach was deemed a fundamentally transformative use.

The Court emphasized that its decision is meant to be specifically focused on APIs as a category and that the decision "[does] not overturn or modify [the Court's] earlier cases involving fair use — cases, for example, that involve 'knockoff' products, journalistic writings, and parodies."

This decision is available here.

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