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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

GOOGLE LLC V. ORACLE AMERICA, OCTOBER 7, 2020

AUTHORED BY - NEHA IRENE SALUJA

Case Analysis, Subject: Intellectual Property Rights



Introduction

A Copyright is a bundle of rights given by the Law to the creators of original works of authorship. Under section 13 of the Copyright Act 1957 copyright protection is conferred on literary works, dramatic works, musical works, artistic works, cinematograph films, sound recording, computer programs, tables and compilations including computer databases. The rights provided under Copyright law include the rights of reproduction of the work, communication of the work to the public, adaptation of the work and translation of the work. The scope and duration of protection

provided under copyright law varies with the nature of the protected work. Copyright gives its owner the exclusive right to make copies of a creative work, usually for a limited time.

Copyright's work of United States

The United States copyright law is contained in chapters 1 through 8 and 10 through 12 of Title 17 of the United States Code. The Copyright Act of 1976, which provides the basic framework for the current copyright law, was enacted on October 19, 1976, as Pub. L. No. 94-553, 90 Stat. 2541. The 1976 Act was a comprehensive revision of the copyright law in Title 17.

This edition adds copyright legislation enacted since the last printed edition of the circular in June 2020: provisions in the Consolidated Appropriations Act, 2021, that added section 2319C to Title 18, United States Code, regarding criminal penalties for copyright infringement, and a new chapter 15 to Title 17, the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020. This legislation was signed into law in December 2020.

Purpose of Copyright

The Congress shall have Power...To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries. united states constitution, article i, section 8

International Copyright Agreements

United States has 5 international copyright agreements, and is a member country of The Berne Convention for Copyright.

Berne Convention for the Protection of Literary and Artistic Works	01 March 1989
Universal Copyright Convention (Geneva)	16 September 1955
Universal Copyright Convention (Paris)	10 July 1974

The Copyright Index operates in United States under international copyright agreements, and is recognised in countries all around the world as a copyright authority providing official copyright registration.

Copyright for Software

The object of copyright protection in a computer program is not the underlying idea, but the computer language used to express that idea. The coding of the program is carried out independently. In this case, the idea underlying the program has expressed this idea.

Software in its simplest sense can be understood as a set of instructions provided to the computer in order to produce the desired result. The most common methods of software piracy are soft-lifting, hard disk loading and unauthorized renting. In addition, the ease of duplication and high quality of pirated software pose a great threat to the software industry. Thus, the software protection by way of intellectual property rights is necessary to ensure that the creator is adequately benefitted and also to encourage creativity and inventiveness in the future.

Software can be protected under the Copyright Act, 1957

Section 101 of 17 USC says that Computer Codes, indirect or direct are copyrightable.

Facts of the Case

Oracle America, Inc., owns a copyright in Java SE, a computer platform that uses the popular Java computer programming language. In 2005, Google acquired Android and sought to build a new software platform for mobile devices. Google copied roughly 11,500 lines of code from the Java SE program. The copied lines are part of a tool called an Application Programming Interface (API).

Issues of the case

- whether Java's API is copyrightable?
- Google's use of the API was a fair use?
- Method of Operation

Exception

There are some general exceptions like the Method of Operation is not copyrightable. The whole cases evolve around the Method of Operation.

To understand the case better, we should first understand why google filed writ of Certiorari

- Oracle filed a Law Suit against google, claiming that google has violated Intellectual Property Rights of Oracle by copying 11500 different codes from Java SE.
- The Case was Appealed to the Federal Circuit Court, Where Federal Circuit Ruled that API's are Copyrightable.
- The Case got appealed by Google to the Supreme Court to review.
- The Supreme Court refused to review the case, agreeing to the ruling made by Federal Circuit court – API's are Copyrightable.
- Then the Federal Circuit court required the district court to go take a look on Fair Use.
- District Court had a Jury Trial to evaluate, where the data which google copied is a Fair Use or not.
- The Jury found that it was Fair Use.

Section 107 of 17 USC, Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.

- Oracle(Petitioner) went ahead and appealed to the Federal Circuit.
- Federal Circuit reviewed the case and said "we don't think that there is any way a reasonable jury could possibly have found that this was fair use.

- Google now filed a writ of Certiorari to Supreme Court asking to review the case.
- Google's copying of the Sun Java API was a fair use of that material as a matter of law. The Federal Circuit's contrary judgment is reversed, and the case is remanded for further proceedings in conformity with this opinion.

Arguments

- The counsel argued upon the method of operation, and there was only one way to do it and Java SE.
- Exemptions stated under section 102
- Case Referred in supporting argument – Baker V Seldon, 1879
- Copied data was 0.4% of the entire API, which is a fair use

Applied Limits in Copyright Act

Firstly, 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).

Secondly, the Act provides that a copyright holder may not prevent another person from making a “fair use” of a copyrighted work. §107. The nature of the work at issue favours fair use. The copied lines of code are part of a “user interface” that provides a way for programmers to access prewritten computer code through the use of simple commands.

As a result, this code is different from many other types of code, such as the code that actually instructs the computer to execute a task. As part of an interface, the copied lines are inherently bound together with uncopyrightable ideas (the overall organization of the API) and the creation of new creative expression (the code independently written by Google).

Google copied only what was needed to allow programmers to work in a different computing environment without discarding a portion of a familiar programming language. Google copied approximately 11,500 lines of declaring code from the API.

Those 11,500 lines, however, are only 0.4 percent of the entire API at issue, which consists of 2.86 million total lines. Google copied these lines not because of their creativity or beauty but because they would allow programmers to bring their skills to a new smartphone computing environment. Google's new smartphone platform is not a market substitute for Java SE.

Google envisioned an Android platform that was free and open, such that software developers could use the tools found there free of charge

What is an API?

API as a tool that “allow[s] programmers to use . . . prewritten code to build certain functions into their own programs, rather than write their own code to perform those functions from scratch.” An API divides and organizes the world of computing tasks in a particular way. Programmers can then use the API to select the particular task that they need for their programs.

What is Fair Use?

1. The Nature of the Copyrighted Work

“The nature of the copyrighted work,” points in the direction of fair use.

2. The purpose and Character of the Use

The purpose and character” of Google’s copying was transformative—to the point where this factor too weighs in favour of fair use.

3. The Amount and Substantiality of the Portion Used

The amount copied by google from Sun Java were 0.4 percent from the total set of Sun Java API Computer Code. Google copied them because programmers had already learned to work with the Sun Java API’s system, and it would have been difficult, perhaps prohibitively so, to attract programmers to build its Android smartphone system without them. weigh in favour of fair use where, as here, the amount of copying was tethered to a valid, and transformative, purpose. Hence, it weighs in favour of fair use.

4. Market Effects

Android did not harm the actual or potential markets for Java SE. Sun would not have been able to enter those markets successfully whether Google did, or did not, copy a part of its API. On the other hand, Google's copying helped Google make a vast amount of money from its Android platform.

The uncertain nature of Sun's ability to compete in Android's market place, the sources of its lost revenue, and the risk of creativity-related harms to the public, when taken together, convince that this fourth factor—market effects— also weighs in favour of fair use.

Case Comments:

- According to the facts presented google copied the declaring code. Google could have written its own declaring code just as it wrote its own implementing code.
- When the jury said it was a fair use, and the case was sent to federal circuit for review, they were required to apply certain standard for review (Rule 50 – to follow certain standard for review).
- That Standard is Summary Judgement which was not followed by Federal Circuit Court.

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Case or Controversary