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White House sides with Oracle, tells Supreme Court APIs are copyrightable

Google v. Oracle: Unlicensed use of APIs might be a fair use, US says.

by David Kravets - May 27, 2015 4:48pm CEST

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Rob Shenk

The Justice Department is weighing in on the hot-button intellectual property dispute between Google and Oracle, telling the Supreme Court that APIs are protected by copyright.

The Obama administration's position means it is siding with Oracle and a federal appeals court that said application programming interfaces are subject to copyright protections. The high court in January asked for the government's views on the closely watched case.

The dispute centers on Google copying names, declarations, and header lines of the Java APIs in Android. Oracle filed suit, and in 2012, a San Francisco federal judge sided with Google. The judge ruled that the code in question could not be copyrighted. Oracle prevailed on appeal, however. A federal appeals court ruled that the "declaring code and the structure, sequence, and organization of the API packages are entitled to copyright protection."

Google maintained that the code at issue is not entitled to copyright protection because it constitutes a "method of operation" or "system" that allows programs to communicate with one another.

"That argument is incorrect," the administration told the justices.

In an amicus brief, computer scientists urged (PDF) the Supreme Court to reverse last year's appeals court decision. "The Federal Circuit's decision poses a significant threat to the technology sector and to the public," they wrote. "If it is allowed to stand, Oracle and others will have an unprecedented and dangerous power over the future of innovation. API creators would have veto rights over any developer who wants to create a compatible program—regardless of whether she copies any literal code from the original API implementation. That, in turn, would upset the settled business practices that have enabled the American computer industry to flourish, and choke off many of the system's benefits to consumers."



SimonQ

Google said it was disappointed with the government's "conclusions" Tuesday. "We still look forward to defending the concepts of interoperability that have traditionally contributed to innovation in the software industry," the company said.

Oracle said the administration's position "affirms the importance of copyright protection as an incentive for software innovation."

The justices are not obligated to follow the administration's position, and the high court has not indicated whether it would review the Federal Circuit's decision.

Even if the Supreme Court refuses to review the appellate court's decision, Google may not be on the hook for monetary damages. That's because the appeals court sent the case back to the lower courts to determine whether Google's use of the code in Android—which it has subsequently abandoned using—constitutes a "fair use."

The government did not state a position on whether Google's actions were protected by the fair use doctrine.

"Petitioner argues that its copying of respondent's code promoted innovation by enabling programmers to switch more easily to another platform. But it is the function of the fair-use doctrine... to identify circumstances in which the unauthorized use of copyrighted material will promote rather than disserve the purposes of the copyright laws," the government told the justices.

Making the case all the more complicated is that there's no clear definition of fair use. It's decided on a case-by-case basis.

"The distinction between what is fair use and what is infringement in a particular case will not always be clear or easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission," according to the US Copyright Office.

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David Kravets / The senior editor for Ars Technica. Founder of TYDN fake news site. Technologist. Political scientist. Humorist. Dad of two boys. Been doing journalism for so long I remember manual typewriters with real paper.

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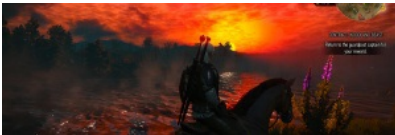
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