

### Apple Inc. v. Corellium, LLC

Case No. 9:19-cv-81160-RS, 2020 U.S. Dist. LEXIS 249945 (S.D. Fla. Dec. 29, 2020)

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| Year      | 2020  |
| Court     | United States District Court for the Southern District of Florida   |
| Key Facts | Plaintiff Apple Inc. owns the copyright in various versions of iOS, the mobile operating system that powers many Apple devices, including the iPhone. Defendant Corellium, LLC developed a product that permits users to create virtual models of iPhones by using iOS files that are available for download from Apple at no cost. Corellium's product has limited functionality and lacks some features of interest for average consumers buying iPhones, including the ability to make phone calls, use the camera, send text messages, or access the App store. The product is intended to provide an environment that facilitates technology security research. Corellium screens customers before permitting them to use the product. After a potential deal to acquire Corellium fell apart, Apple filed suit alleging that Corellium infringed Apple's copyrights in iOS and circumvented its security measures in violation of the federal Digital Millennium Copyright Act ("DMCA"). Corellium moved for summary judgment on fair use and the DMCA claim; Apple moved for summary judgment on its DMCA claim.   |
| Issue     | Whether the use of a copyrighted operating system to create a simulated security research and testing environment is fair use.  |
| Holding   | For the first fair use factor, the purpose and character of the use, the court concluded the use was transformative because the Corellium product incorporates its own code and includes additional features not included in the iOS to create a new product that serves the transformative purpose of enabling security research. Although Corellium's product was sold commercially, the profit motivation did not undermine a finding of fair use, "particularly considering the public benefit of the product." For the second fair use factor, the nature of the copyrighted work, the court noted the limitations on copyright protection for functional software but found the second factor rarely played a significant role in the fair use analysis. The court concluded that the third factor, the size and significance of the portion of the copyrighted work used, weighed in favor of fair use. The court found that Corellium's use of iOS, which excluded consumer iOS device features like the App Store and camera, was "proportional and necessary to achieve Corellium's transformative purpose." For the fourth factor, the effect on the potential market or value of the original, the court concluded that this favored fair use. The court did not find any significant market impact, rejecting the arguments that Corellium's product competed with Apple's security research product and harmed the licensing market for iOS. In addition, the court considered and did not find a "lack of good faith and fair dealing" because Corellium vetted its customers and held them to no lesser standard than Apple itself imposed in its security research program. Weighing all these factors, the court found Corellium's use of iOS to be a fair use and dismissed the copyright claim. The court went on to deny summary judgment on Apple's DMCA anti-circumvention claim, rejecting the argument that Corellium's fair use defense also absolved it of liability for circumvention and concluding that genuine issues of material fact remained concerning this claim. |
| Tags      | Computer Program; Education/Scholarship/Research; Internet/Digitization   |
| Outcome   | Fair use found  |

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