Google LLC v. Oracle Am., Inc.
141 S. Ct. 1163 (2021)

Year	2021
Court	Supreme Court of the United States
Key Facts	Plaintiff Oracle America, Inc. owns the copyright in the Java SE computer platform, which allows developers to use the Java language to write programs that can run on any desktop or laptop computer. The Java SE platform contains implementing code, which instructs the computer how to execute particular tasks, as well as declaring code, which provides both the name for each task the computer can perform and locates each task within the platform's organizational system. Developers use and become familiar with specific "method calls," which interact with the declaring code to invoke the implementing code for the task they want their program to perform. When Google created Android, its platform for mobile devices, it wrote millions of lines of new code, including all of its own implementing code. Because Google wanted programmers who were familiar with Java to be able to write programs for Android easily, it copied roughly 11,500 lines of declaring code and the underlying organizational system from the Java SE platform. At trial, the jury found that Google had infringed Oracle's copyright, but it deadlocked on the question of whether Google's copying was a fair use. The district court, however, found that the declaring code was not copyrightable as a matter of law and entered judgment for Google. On appeal, the Federal Circuit reversed, holding "the Java API packages are entitled to copyright protection," and the case was remanded for a jury trial on fair use. At a second trial, the jury found Google's use was a fair use, and the court denied Oracle's post-judgment motions. On a second appeal, the Federal Circuit again reversed, concluding that "[t]here is nothing fair about taking a copyrighted work verbatim and using it for the same purpose and function as the original in a competing platform."
Issue	Whether copying portions of the declaring code and organizational structure from a computer software platform for use in a new software platform to make it easier for software developers to write programs for the new platform constitutes fair use.
Holding	Assuming "purely for argument's sake" that the declaring code was copyrightable, the Court's opinion focused on fair use. The Court found that fair use plays a particularly important role in cases involving computer programs because Congress relied on limiting doctrines, such as fair use, to prevent copyright holders from "using copyright to stifle innovation" when deciding that computer programs were protectable by copyright. As a threshold matter, the Court held that a reviewing court should accept the factual findings of the jury but review the ultimate question of fair use *de novo* because that determination "primarily involves legal work." The Court also held that there is no right to a jury trial on the question of fair use. Turning to the fair use factors, the Court began its analysis by considering the second factor, the nature of the copyrighted work. The Court found this factor favored fair use because the declaring code was further than most computer programs from the core of copyright. As an interface, the declaring code was "functional in nature" and, unlike many other computer programs, its use is "inherently bound together" with uncopyrightable ideas, developers' method calls, and implementing code. Further, "its value in significant part derives from the value that those who do not hold copyrights, namely, computer programmers, invest of their own time and effort to learn." On the first factor, the purpose and character of the use, the Court found that it was not sufficient to determine whether Google used the code for the same purpose Oracle used it in the Java SE platform, namely, to enable programmers to call up implementing programs that would accomplish particular tasks, because the purpose of virtually all reuses of computer programs would be to accomplish the same functional tasks they performed in the original work. The Court concluded that Google's "reimplementation" of the Java API in Android was a "transformative" use because it "adds something new and important," that is, it "further[s] the development of

	computer programs" by allowing programmers to use their existing Java skills in a new mobile platform. The Court noted that, while a use that was noncommercial would "tip[] the scale in favor of fair use," Google's use was commercial, but this was not dispositive in light of the transformative nature of the use. The Court declined to rule on whether evidence of good faith tends to weigh in favor of fair use. The Court held the third factor, the amount and substantiality of the portion used in relation to the copyrighted work as a whole, favored fair use because the 11,500 lines copied constituted only 0.4 percent of the entire Java SE platform. The Court compared the number of lines to the total number of lines of code used in the Java SE platform, rather than the number of lines of declaring code, because the declaring code is "inseparably bound" to the implementing code. The Court found the "amount of copying was tethered to a valid, and transformative, purpose," and was not more than necessary to achieve Google's objective, which was "not simply to make the Java programming language usable on its Android systems," but rather "to permit programmers to make use of their knowledge and experience." On the fourth factor, the effect of the use upon the potential market for or value of the work, the Court found the jury had heard evidence that Oracle would not have been able to enter the mobile firmware marketplace and that devices using Android's platform and Oracle's platform were in different markets, such that it could have found that Android did not harm Oracle's actual or potential markets for the Java SE platform. The Court also considered the "public benefits" likely to flow from the copying as compared to the dollar amount lost, although the Court cautioned that these questions might not always be relevant to fair uses, even in the context of computer programs. The Court held that the costs of producing new declaring code that programmers would want to use would be prohibitive, and the public would be harmed if Oracle had too much power to control the development of new applications and new uses. Further, any losses Oracle incurred were due not to the expressive qualities of the declaring code, but to programmers having become accustomed to using certain method calls. Concluding the factors together supported fair use, the Court reversed the appellate judgment.
Tags	Computer Program
Outcome	Fair use found

Source: U.S. Copyright Office Fair Use Index. For more information, see https://www.copyright.gov/fair-use/.