

Oracle America, Inc. v. Google LLC
Nos. 2017-1118, 2017-1202 (Fed. Cir. Mar. 27, 2018)

Year	2018
Court	United States Courts of Appeals for the Federal Circuit
Key Facts	Plaintiff Oracle owns patents and copyrights related to its Java application programming interface packages (“API packages”). Defendant Google allegedly infringed Oracle’s copyright when it used 37 of Oracle’s API packages in its Android operating system. At trial, the jury found that Google had infringed Oracle’s copyrights, but it deadlocked on the question of whether Google’s copying was a fair use. However, the district court then found that the API packages were not copyrightable as a matter of law and entered judgment for Google. Upon 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 Google’s fair use defense. ¹ At a second trial on the issue of fair use, the jury found in favor of Google, and the court denied Oracle’s motions for judgment as a matter of law or for a new trial. In doing so, the district court concluded that a reasonable jury could have found that Google’s use, although commercial, was transformative, that the code was not “highly creative,” that “the number of lines duplicated [by Google] was minimal,” and that Google’s use did not harm the market for Oracle’s copyrighted works. Oracle appealed.
Issue	Whether Google’s use of Oracle’s API packages was fair.
Holding	The court held that Google’s use of Oracle’s API packages was not fair. The court noted that fair use is a mixed question of law and fact, and that in such a case, a court of appeals separates the mixed questions and reviews each piece under the applicable standard of review. The Federal Circuit stated that “whether the court applied the correct legal standard to the fair use inquiry is a question we review de novo, whether the findings relating to any relevant historical facts were correct are questions which we review with deference, and whether the use at issue is ultimately a fair one is something we also review de novo.” The court found that factor one, the purpose and character of the use, weighed against fair use. First, Google’s use was commercial. Second, Google’s use was non-transformative, because Google copied the API packages and moved them to a different platform. The court concluded that factor two, nature of the copyrighted work, was the only factor that weighed in favor of Google, highlighting the functional characteristics of the API packages. On factor three, amount and substantiality of the portion used, the court found Google copied more than it had to and that it copied critical material. Lastly, the court reasoned that the fourth factor, effect of the use upon the potential market, weighed against fair use. The court noted there was actual market harm because “Android competed directly with Java SE in the market for mobile devices.” There was also potential market harm because “the undisputed evidence showed, at a minimum, that Oracle intended to license Java SE in smartphones” Balancing the factors, the court held that Google’s use was not fair, because “[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.”
Tags	Federal Circuit; Computer Program
Outcome	Fair use not found

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¹ More information can be found here: <https://www.copyright.gov/fair-use/summaries/oracle-google-fedcir2014.pdf>.