

**Tavory v. NTP, Inc.,
495 F. Supp. 2d 531 (E.D. Va. 2007)**

Year	2007
Court	United States Court of Appeals for the Eastern District of Virginia
Key Facts	Plaintiff Oren Tavory filed an action to be joined as an inventor with respect to six telecommunications patents held by defendant NTP, Inc. As part of the action, plaintiff claimed that he owned the copyright to certain source code contained in the software at issue. Plaintiff further claimed that defendant violated his copyright in the source code by making copies of the six related patent applications (which were alleged to have contained the source code) and distributing the copies to parties, experts, and the court in a previously concluded litigation that did not involve plaintiff. Defendant brought a motion for summary judgment directed, in part, to plaintiff's infringement claim.
Issue	Whether defendant's unauthorized reproduction of allegedly protected source code for use during litigation was fair use.
Holding	The court held that the litigation-related conduct giving rise to the opportunities for which the source code was copied was a fair use. The court based its determination on its conclusion that the adjudication of the previously concluded litigation "required the reproduction and dissemination of the patent applications, which necessarily set forth the code that [plaintiff] claims to have authored." Additionally, the court relied on its determination that "the character of the [defendant's] use was not commercial, nor was the potential market for or value of the software source code impaired."
Tags	Fourth Circuit; Education/Scholarship/Research; Textual work; Used in government proceeding
Outcome	Fair use found

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