

Appeal court revives Oracle-Google copyright battle (Update)

May 9 2014, by Glenn Chapman



The Oracle logo is displayed at company headquarters on March 20, 2012 in Redwood Shores, California

An appeals court on Friday breathed new life into Oracle's big-money lawsuit against Google by ruling that software commands can be copyrighted just like classic books.

The case stems from 2012 trial, in which Oracle claimed Google owed

them billions in damages for using parts of the Java programming language in its Android smartphone operating system.

The case is being closely watched in Silicon Valley, where some champions of Internet freedom worry that extending copyright protection to these bits of code, called application programming interfaces, or APIs, would threaten innovation.

A panel of three judges in the US Federal Circuit Court of Appeals concluded that the trial court in 2012 erred and that it is bound to afford APIs protection under copyright laws "until either the Supreme Court or Congress tells us otherwise."

"We're disappointed—and worried," the Electronic Frontier Foundation (EFF) said in a blog post about the appeals court decision.

"The implications of this decision are significant, and dangerous."

The EFF and other groups worry the decision could herald an explosion in legal battles over software spreading to copyrights in how code is written.

Could go to Supreme Court

In the 2012 trial before US District Court Judge William Alsup California business software titan Oracle accused Google of infringing on Java computer programming language patents and copyrights Oracle obtained when it bought Java inventor Sun Microsystems in a \$7.4 billion deal in 2009.

Oracle argued that it held copyrights to how the APIs worked even if different strings of code were used to orchestrate the tasks.



Google logo is seen on a wall at the entrance of the Google offices in Brussels on February 5, 2014

In the fast-paced land of Internet innovation, it has been common for software writers to put their own spins on APIs that mini-programs use to "talk" to one another.

Google denied the claims and said it believes mobile phone makers and other users of its open-source Android operating system are entitled to use the Java technology in dispute.

"When there is only one way to express an idea or function, then everyone is free to do so and no one can monopolize that expression," Alsup said in his ruling last year.

"So long as the specific code used to implement a method is different, anyone is free under the Copyright Act to write his or her own code to carry out exactly the same function or specification of any methods used in the Java API."

But the appellate judges disagreed and sent the case back to Alsup.

Google could appeal to the full appeals court panel and even pursue it to the US Supreme Court.

Fair use

Appeals judges indicated in their ruling that Google might prevail on the legal grounds that "fair use" made it acceptable.

"Google can focus on asserting its fair use defense, and hope that fair use can once again bear the increasing burden of ensuring that copyright spurs, rather than impedes, innovation," the EFF said.

"We're confident that it can, but it shouldn't have to."

Oracle depicted the appeals court decision as "a win for Oracle and the entire software industry that relies on copyright protection to fuel innovation and ensure that developers are rewarded for their breakthroughs," its general counsel, Dorian Daley, said in an email response to an AFP inquiry.

"We are extremely pleased that the Federal Circuit denied Google's attempt to drastically limit copyright protection for computer code," he added.

But Google said it was "disappointed" by the ruling, "which sets a damaging precedent for computer science and software development,

and are considering our options."

Google unveiled the free Android operating system two years before Oracle bought Sun.

The outcome of the original trial left Oracle eligible for a relative pittance in damages based jurors finding that it misused nine lines of Java code in Android in an inconsequential win for Oracle.

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