Google v. Oracle

The API Saga Might Be Coming to an End

by
Ronald L. Chichester

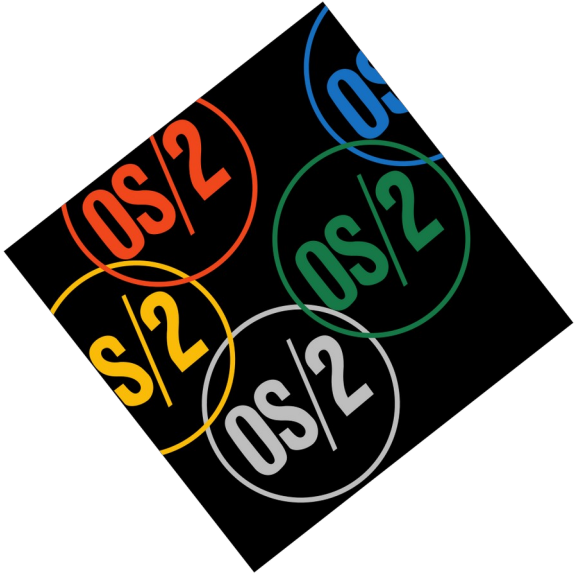
Computer and Technology Section

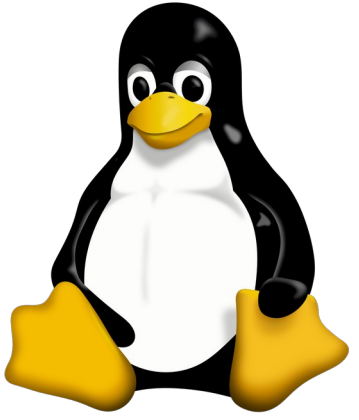
Some History

1995

UNIX

1995





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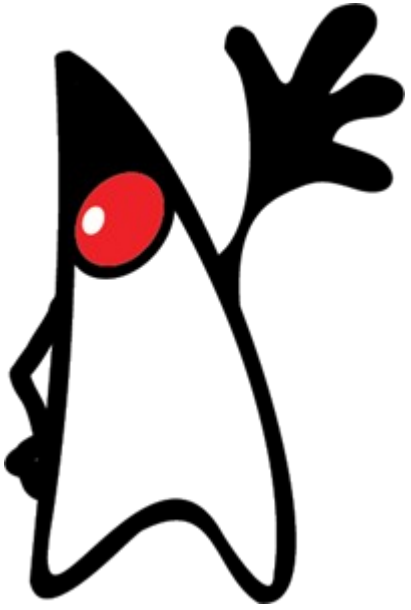
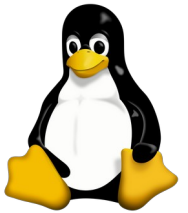



Java™


Java
Programming


Java
Programming


Java
JRE8



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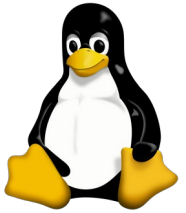
Java Programming

UNIX



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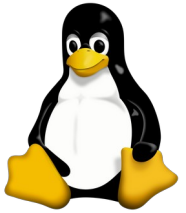
Java Programming

Java JRE8

UNIX



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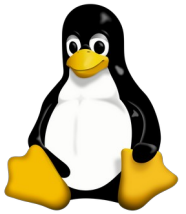
API
Application Programming Interface


Java
JRE8


UNIX


Windows 95

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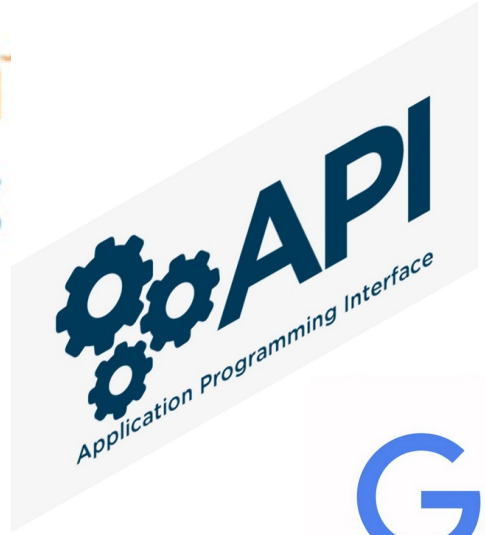
OS/2
OS/2


Java
Programming


API
Application Programming Interface


Google


android


Sun
microsystems


Java™


Java
JRE8


ORACLE


Java™


Java
JRE8

What is the Case About?

COMPUTER AND TECHNOLOGY SECTION

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  - Section 102(a) or 102(b) of the Copyright Act
  - Can the owner of a copyrighted program preclude interoperability of other people's separate works?

What is this case ***really*** about?

Can copyright extend to an ecosystem as well as to the underlying work?

Copyright Law

v.

Established Software Convention

What is an API?

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- Relieves the programmer from having to "re-invent the wheel" for each program

Brief History of the Case

ORACLE

Google

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ORACLE

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17 U.S.C. 102(b)

- (b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

United States Court of Appeals for the Federal Circuit

- In 2014, the CAFC ruled that API's were protectable under Section 102(**a**), and sent the case back down to the District Court

COMPUTER AND TECHNOLOGY SECTION

United States District Court
NORTHERN DISTRICT OF CALIFORNIA
PHYLLIS J. HAMILTON, CHIEF JUDGE SUSAN Y. SOONG, CLERK OF COURT

- Back in District Court:

COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

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  - Google argued for Fair Use
  - The Jury agreed
- Oracle appealed to the CAFC
  - Google cross-appealed on the 102(a)/102(b) issue

COMPUTER AND TECHNOLOGY SECTION

United States Court of Appeals for the Federal Circuit

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COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

SUPREME COURT
OF THE UNITED STATES

- Google asked for review of both CAFC rulings

COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

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COMPUTER AND TECHNOLOGY SECTION

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OF THE UNITED STATES

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  - SG concluded that cert should be denied
    - The CAFC was right both times
    - No reasonable jury could find Fair Use
- SCOTUS granted cert

COMPUTER AND TECHNOLOGY SECTION

The Questions Presented

COMPUTER AND TECHNOLOGY SECTION

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- (1) Whether copyright protection extends to a software interface; and
- (2) whether, as the jury found, the petitioner's use of a software interface in the context of creating a new computer program constitutes fair use.

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COMPUTER AND TECHNOLOGY SECTION

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  - Merger Doctrine – Only one way to express the API
  - Any “innovation” belongs in a patent
  - Fair Use is too fact-bound, so not a matter of law
- J. Sotomayor brought up reliance/latches

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  - Google just loved Oracle’s innovation

The Arguments

- Oracle argued:
  - The CAFC got everything right
  - The SG was right
  - Google just loved Oracle's innovation
  - No Fair Use (the CAFC got that right too)

COMPUTER AND TECHNOLOGY SECTION

The Arguments

- Harder to get a read on the Court because everyone was on a videoconference, so CJ Roberts let each justice talk sequentially, each with independent thoughts and questions

The Arguments

- Google's 102(b) argument didn't sit well with Justice Gorsuch, who got Mr. Goldstein to admit that Google's APIs could have been written differently, and thus the low threshold of copyrightability (under 102(a)) was available to Oracle

Speculations

Questions? Comments?

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