

附件1

Oracle vs. Google

2010.8 - 2012.5 US District Court for the Northern
District of California
2014.5.9 CAFC

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Core Terms

- ✓ JAVA : package 、 class 、 method
- ✓ Structure 、 sequence 、 organization
- ✓ **Copyright (17 U.S.C. § 102(b))**
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.
- ✓ Literary Work

Core Terms II

- ✓ Fair Use (17 U.S.C. § 107 – Limitations on exclusive rights : Fair use)
 - 1.the purpose and character of the use, including whether **such use is of a commercial nature or is for nonprofit educational purposes**
 - 2.the nature of the **copyrighted work**
 - 3.**the amount and substantiality** of the portion used in relation to the copyrighted work as a whole; and
 - 4.the effect of the use upon the potential market for or value of the copyrighted work.

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Overview I

- ✓ 2007 **Google** Andriod : JAVA(Sun Microsystems)
- ✓ 2010 **Oracle** Purchase Sun Microsystems



- ❑ 37 JAVA API packages :
 - 1.Declaring code : 7000 lines
 - 2.Structure, Sequence, Organization
- ❑ 1 rangeCheck(排序檢查)
- ❑ 8 decompiled security files(反編譯資安程式)

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Overview II

□ Agree :

1. Anyone can write programs using the JAVA language
2. Google can write its own API using the JAVA language

□ Key point :

Google copy structure 、 sequence 、 organization of 37 packages

1. How to determine infringement?
2. Under the protection of 17 U.S.C. § 102(b)?

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District Court Verdict I

✓ **Patent** : The jury found non-infringement

✓ **Copyright** :

1. **Infringement** : 37 packages 、 1 rangeChack

2. **Fair Use** : The jury could not reach a majority opinion



JMOL, motion for judgment as a matter of law

1. **Google admitted copying 8 decompiled security files**

2. **not de minimis** ◦

3. **Alsup法官引述17 U.S.C. § 102(b): the declaring code and the structure, sequence, and organization of the 37 Java API packages are not entitled to copyright protection**

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reasons

District Court Verdict II

1. Base on “**idea and expression have merged**” and the declaring code are **short phrases**
(當只有一種表達方式可以表達該概念時，該表達即不受保護；JAVA語言規則下，declaration必須精準(完全一樣)才能執行特定功能)
2. The Java API packages as a “**method of operation**”, are not entitled to copyright protection.
3. Creativity should be subject to patent law rather than copyright law protection
(迴避專利法20年，且不經專利要件審查即想受著作權法95年)

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reasons

District Court Verdict III

3. 有關Oracle 引述1997年7th CAFC American Dental Association v. Delta Dental Plans Association，主張程式結構屬於一種分類學 (taxonomy)，應受著作權法保護，Alsup法官引述17 U.S.C. § 102(b)，認為JAVA語言分類方式很像是一種分類學，但仍是一個命令結構、一種系統或操作方式。
4. Alsup法官另提出相容性(interoperability)補強：Google之所以複製分類法係基於相容性需求。

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District Court Verdict IV

reasons

5. 有關基於相容性需求複製JAVA分類是否須經授權， Alsup法官引述9th CAFC
 - 1) 1992年, In Sega Enterprisses Ltd. v. Accolade Inc.(為達相容性而以逆向工程複製程式碼，構成合理使用，且其屬於功能面向，依17 U.S.C. § 102(b)不受保護)
 - 2) 2000年, Sony Computer Entertainment Inc. v. Connectix Corporation 。 (Playstation BIOS)

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CAFC Verdict I

- ✓ **Affirm the district court's decisions :**
 1. granting Oracle's motion for JMOL as to the 8 decompiled Java files that Google copied into Android
 2. denying Google's motion for JMOL with respect to the rangeCheck function 。
- ✓ **Reverse the district court's decisions :**
 1. the declaring code and the structure, sequence, and organization of the 37 Java API packages **are entitled to copyright protection**
 2. remand Google's **fair use defense for further proceedings** consistent with this decision

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CAFC Verdict II

reasons

1. **Idea and expression have merged** : CAFC認為該原則應該只看Sun在開發JAVA時是否在 Declaring code 只有有限選擇，既然當初有很多選擇，就不夠用該原則。Google開發 Andriod 是否為有限選擇應為侵權抗辯，而非 JAVA 是否受著作權法保護的問題。
2. **Declaring code are short phrases** : CAFC認為個別也許都是短詞，但Google複製7000行程式碼，且JAVA選用不同短詞具創造性及原始性。

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CAFC Verdict III

reasons

3. **Structure、sequence、organization of 37 packages are not entitled to copyright protection** : CAFC認為操作方法具有功能，也許不受保護，但操作方法的表達仍可受保護。
4. **Interoperability** : CAFC認為產品相容性問題不屬於是否受著作權法保護的判斷，而是屬於 Fair Use 的判斷。

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