

No. 18-956

IN THE
Supreme Court of the United States

GOOGLE LLC,

Petitioner,

v.

ORACLE AMERICA, INC.,

Respondent.

On Writ of Certiorari
to the United States Court of Appeals
for the Federal Circuit

BRIEF FOR THE PETITIONER

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QUESTIONS PRESENTED

The Copyright Act provides that, while “original works of authorship” are generally eligible for copyright protection, 17 U.S.C. § 102(a), “[i]n 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,” *id.* § 102(b). The Act also makes clear that “the fair use of a copyrighted work . . . is not an infringement of copyright.” *Id.* § 107.

As is relevant here, software interfaces are lines of computer code that allow developers to operate pre-written libraries of code used to perform particular tasks. Since the earliest days of software development, developers have used interfaces to access essential tools for building new computer programs. Contravening that longstanding practice, the Federal Circuit in this case held both that a software interface is copyrightable and that petitioner’s use of a software interface in a new computer program cannot constitute fair use as a matter of law.

The questions presented are:

1. Whether copyright protection extends to a software interface.
2. Whether, as the jury found, petitioner’s use of a software interface in the context of creating a new computer program constitutes fair use.

RULE 29.6 STATEMENT

Petitioner Google LLC is an indirect subsidiary of Alphabet Inc., a publicly held company. Alphabet Inc. has no parent corporation, and no publicly held company owns 10% or more of its stock.

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