No. 18-956

In the Supreme Court of the United States

GOOGLE LLC, PETITIONER

v.

ORACLE AMERICA, INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

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QUESTIONS PRESENTED

The Copyright Act of 1976, 17 U.S.C. 101 *et seq.*, protects "original works of authorship," 17 U.S.C. 102(a), including "computer program[s]," 17 U.S.C. 101. The Act specifies, however, that copyright protection does not "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." 17 U.S.C. 102(b). Under the "merger" doctrine, copyright protection also does not apply when an idea can be expressed in only a limited number of ways, such that the expression and idea "merge." Finally, the Copyright Act provides that "the fair use of a copyrighted work * * * is not an infringement of copyright." 17 U.S.C. 107.

The questions presented are as follows:

1. Whether Section 102(b) or the merger doctrine precludes copyright protection for respondent's original computer code, which defines and organizes a set of functions that are useful in writing computer programs.

2. Whether the court of appeals correctly held that no reasonable jury could find that petitioner's verbatim copying of respondent's original computer code into a competing commercial product was fair use.

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