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Mealey's® Litigation Report: Copyright

Mealey's Litigation Report: Copyright features in-depth reporting of copyright law, including court decisions, new suits, settlements, and trials.

Litigation Snapshot

Following six years of litigation and two trials, Google Inc. in May 2016 prevailed on allegations of infringement when California jurors deemed Google's integration of certain Java programming language into the Android operating system a fair use. Although the verdict was widely celebrated by the open source community, other courts have taken a more conservative view of fair use in the copyright arena. The Supreme Court meanwhile in June 2016 ruled – for the second time – in favor of a former college student accused of infringement, this time increasing the availability of attorney fees for those who mount a successful defense in copyright cases. Next up at the Supreme Court could be a recent holding by the Ninth Circuit U.S. Court of Appeals that the *de minimis* exception to allegations of infringement of a sound recording remains viable – a notable split with other circuit courts that have thus far found to the contrary.

Who Needs To Know

- » Copyright practitioners
- » Attorneys who focus on intellectual property law
- » Corporate counsel
- » Judges and court staff across the entire U.S. federal judiciary
- » Professors, students, and library staff at every accredited law school in the U.S.

Areas Of Coverage

- » Jurisdiction issues
- » Infringement
- » Damages and statutory fees
- » Electronic and Internet issues
- » Statute of limitations
- » Insurance coverage
- » Constitutional issues
- » Digital Millennium Copyright Act
- » Protectability
- » New suits
- » Settlements
- » Trials

How Lexis Legal News Can Help

Mealey's Litigation Report: Copyright on Lexis Legal News and via email delivery features unbiased news stories, case summaries, attorney listings, and the PDFs of court and agency documents and regulations. Subscribers also receive expert commentary articles and email bulletins of breaking news. This valuable insight into current news and litigation trends helps subscribers to advise clients, prepare for trial, draft pleadings and briefs, develop case strategies, formulate arguments, and build compelling cases.

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Sample Newsletter and Section News

From: Mealey's Copyright <service@lexislegalnews.com> Sent: Fri 6/3/2016 3:04 PM
 To: Jane.Doe@Firm.com
 Cc:
 Subject: Mealey's Litigation Report: Copyright, June 2016, Volume 15, Issue 5

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MEALEY'S COPYRIGHT

Supreme Court

Supreme Court Takes Up Copyright Dispute Over 'Useful Articles'
 WASHINGTON, D.C. — In its May 2 orders list, the U.S. Supreme Court granted certiorari in a dispute between competing cheerleading uniform makers over the copyrightability of "useful articles" (*Star Athletica, LLC v. Varsity Brands, Inc.*, et al., No. 15-866, U.S. Sup.).

Removal

Pennsylvania Federal Judge Denies Remand Request In Copyright Dispute
 PHILADELPHIA — A declaratory judgment action brought in anticipation of a threatened claim of copyright infringement provides a sufficient basis for removal of the case from state court, a Pennsylvania federal judge ruled May 5 (*TGaS Advisors LLC v. Zensights LLC*, No. 16-1870, E.D. Pa., 2016 U.S. Dist. LEXIS 69687).

Jurisdiction

Washington Federal Judge Dismisses Copyright Case On Jurisdiction Grounds
 TACOMA, Wash. — A copyright infringement dispute between a website development company and a chiropractic firm that retained the developer's services was dismissed May 6 by a Washington federal judge, who found that the developer "has failed to show any substantial contacts" by the company in Washington "beyond the existence of the contract" (*Williams Business Services Inc. v. Waterside Chiropractic Inc.*, No. 14-5873, W.D. Wash., 2016 U.S. Dist. LEXIS 60529).

Trials

Jury Finds Google's Use Of Copyrighted Java Technology Was Fair Use
 SAN FRANCISCO — On the fourth day of deliberations in the second copyright trial over Java-related technology between Oracle America Inc. and Google Inc., a California federal jury on May 26 found that Google's use of Java structure, sequence and organization (SSO) in its Android operating system constituted fair use under the Copyright Act (*Oracle America Inc. v. Google Inc.*, No. 13-17073, N.D. Cal.).

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 Links to the full article, related stories, related documents and comments section.

SECTION HEADER
 Links to the topical section of Lexis Legal News.

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June 21, 2016
North Carolina Federal Judge Denies Injunction Following Jury Verdict
 RALEIGH, N.C. — A plaintiff who was awarded more than \$80 million at the conclusion of a fraudulent inducement and breach of license damages trial in September 2015 was nonetheless denied a permanent injunction on June 17 by a North Carolina federal judge, who noted that the defendant prevailed on summary judgment with regard to copyright infringement (*SAS Institute Inc. v. World Programming Ltd.*, No. 10-25, E.D. N.C., 2016 U.S. Dist. LEXIS 79234).

June 21, 2016
7th Circuit Vacates, Remands Attorney Fee Award in Copyright Case
 CHICAGO — A photographer who voluntarily dismissed his copyright infringement action should not be required to pay a defendant's requested for \$33,974 in attorney fees, the Seventh Circuit U.S. Court of Appeals ruled June 17 (*Richard N. Bell v. Charles Lantz*, No. 15-2341, 7th Cir., 2016 U.S. App. LEXIS 11006).

June 20, 2016
2nd Circuit Rules DMCA Safe Harbor Applies To Pre-1972 Works In Vimeo Suit
 NEW YORK — Mostly affirming a trial court's ruling dismissing copyright infringement claims against video-sharing site operator Vimeo LLC, a Second Circuit U.S. Court of Appeals panel on June 16 found that the safe harbor provision of the Digital Millennium Copyright Act (DMCA) is available to recorded works from before 1972 that are governed by state law (*Capitol Records LLC, et al. v. Vimeo LLC, et al.*, No. 14-1048, 2nd Cir., 2016 U.S. App. LEXIS 10884).

June 20, 2016
11th Circuit Affirms: Jury Verdict in Copyright Case Was Unsupportable
 ATLANTA — A Florida federal judge did not err in granting judgment notwithstanding a jury's verdict of copyright infringement, the 11th Circuit U.S. Court of Appeals ruled June 17 in a dispute over an architectural floor plan (*Home Design Services Inc. v. Turner Heritage Homes Inc. et al.*, No. 15-11912, 11th Cir., 2016 U.S. App. LEXIS 10962).

June 17, 2016
Writer Asks 9th Circuit To Reinstate Rescission Claim Against Disney In Copyright Suit
 SAN FRANCISCO — A Florida writer argues in June 1 brief to the Ninth Circuit U.S. Court of Appeals that a trial judge should not have tossed his copyright suit against the Walt Disney Co. over its "Pirates of the Caribbean" movie franchise because he provided the company with proper notice of his intentions to rescind a release and settlement agreement (*Royce Mathew v. The Walt Disney Co., et al.*, No. 15-56726, 9th Cir.).

June 17, 2016
Royal Manticoran Navy To High Court: Simple Shapes Are Not Copyrightable
 WASHINGTON, D.C. — The Royal Manticoran Navy, The Official Honor Harrington Fan Association Inc. (TRMNF) filed an amicus curiae brief on May 26 telling the U.S. Supreme Court that simple shapes are not by themselves

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Jury Finds Google's Use Of Copyrighted Java Technology Was Fair Use Share on

Mealey's (May 27, 2016, 9:44 AM ET) — SAN FRANCISCO — On the fourth day of deliberations in the second copyright trial over Java-related technology between Oracle America Inc. and Google Inc., a California federal jury on May 26 found that Google's use of Java structure, sequence and organization (SSO) in its Android operating system constituted fair use under the Copyright Act (*Oracle America Inc. v. Google Inc.*, No. 13-17073, N.D. Cal.).

(Verdict available: Document #24-150816-0005)

Java Technology

Oracle: successor to Sun Microsystems, first sued Google before U.S. Judge William Alsup of the Northern District of California in September 2010, alleging infringement by Google of the Java operating system while developing the competing Android operating system. Although the parties agreed that the use of the Java language itself involved nothing, Oracle alleged that 5 percent of Android constituted an infringing work. In conjunction with a jury verdict, Judge Alsup in May 2012 determined that the Java SSO constituted a noncopyrightable "method of operation" within the meaning of Section 102(b) of the Copyright Act.

The Federal Circuit U.S. Court of Appeals reversed in May 2014, holding that the remaining 5 percent infringed Oracle's copyright in the SSO of the Java Application Programming Interface (API) packages, sets of prewritten computer programs used to perform common functions, which eliminates the need for a programmer to write code from scratch. The U.S. Supreme Court denied Google's petition for certiorari in June 2015. The Federal Circuit remanded the case for further proceedings on Google's fair use defense, as well as Oracle's remedies, including injunctive relief and damages, which could amount to multiple billions of dollars because Oracle now claims additional damages based on sales of Android-driven devices since 2010.

Permalink Version: Documents: Verdict, Oracle's trial brief, Google's trial brief, Oracle's JMOL motion, Oracle's motion for JMOL, Oracle's opposition, Federal Circuit ruling, May 2012 ruling. Related: Mealey's Copyright, Mealey's Copyright & S. Commerce, Mealey's Intellectual Property.