INTRODUCTION

As Marc Andreessen famously quipped, “software is eating the world.”¹ As computer code further permeates every part of daily life, the legal battles surrounding every aspect of its creation, use, and proliferation will become more frequent and more critical. One crucial battle is being fought in the judicial system at this very moment: the fight between Oracle and Google over the copyrightability and use of a selection of Java APIs in Google’s Android mobile operating system. This Special Issue of the HARVARD JOURNAL OF LAW AND TECHNOLOGY focuses on this ongoing landmark legal dispute as a way to discuss the state of the law regarding copyright and software. Professor Peter Menell’s anchoring article describes the history and scope of the case in incredible detail, putting the entire dispute into perspective and framing the conversation that follows.² Included is commentary from the lawyers who have represented Oracle and Google in the already-litigated cases, Ms. Annette Hurst³ and Mr. Fred von Lohmann⁴ respectively, as well as contributions from leading scholars in the field. The topics of the contributions include direct commentary on the litigation and its impact from Professor Oman,⁵ a discussion of the importance of interoperability by Mr. Gratz and Professor Lemley,⁶ in-depth examinations of aspects of the fair use defense from Professor Nimmer⁷ as well as from Professors Samuelson and Asay,⁸ and a look at the international software copyright landscape from Professor Band.⁹

Together, these contributions display the range of different viewpoints in the currently raging broader debate. Professor Menell compellingly describes the Oracle v. Google litigation as a resurrection of a fight many thought to be finished decades ago. But the litigation may be more than that. Not only is the debate over APIs and copyright raging anew, but it also promises to be a long, hard-fought battle with novel, sweeping implications for the software industry and, as a result, so many aspects of the world around us.

Thank you for taking the time to read the HARVARD JOURNAL OF LAW AND TECHNOLOGY’S Special Issue: Software Interface Copyright. Enjoy the incredible scholarship in the rest of this volume.

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