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Field v. Google Inc.

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ADDITIONAL DEVELOPMENTS—COPYRIGHT

FIELD V. GOOGLE INC.

2006 WL 242465 (D. Nev. Jan. 19, 2006)

The United States District Court for the District of Nevada ruled that Google's cached copies of plaintiff's copyrighted webpages were non-infringing. Further, the court held that even if the cache did infringe, Google's implied license and fair use defenses protected it from liability.

Blake Field, a Nevada author and attorney, brought suit against Google for copyright infringement. As part of its standard operating procedure, Google had automatically copied and cached Field's website, which included numerous works authored by the plaintiff. Field alleged that Google directly infringed his copyrights when it served cached copies of his works to its users. Field sought \$2,550,000 in statutory damages for Google's alleged infringement. Both Google and Field sought summary judgment.

The District Court granted Google's summary judgment motion, holding that the plaintiff's copyrights had not been infringed. The court held that because Google's passive transmission of its cached copy of the plaintiff's webpages to users involved no volitional act by Google, it could not constitute infringement. Additionally, the court held that Field's failure to include a "no-archive" metatag on his site established an implied license to cache its content and estopped Field's infringement claims, given the norms of internet publication and search engine indexing. Finally, the court concluded that Google's caching of Field's website in its search archive was a transformative use deserving of the protection offered by the fair use defense.