

Notable Legal Copyright Cases

Some important cases that have had a real impact on the notion of whether software can be free or not, and whether software can be created to freely share other forms of intellectual property include the following:

Apple Computer, Inc. v. Franklin Computer Corp.

The Franklin Computer Corporation created a computer known as the *Franklin Ace 1000*, which at first appeared to be a clone of Apple Computer's *Apple II*. A clone is a hardware or software system that is designed to function in exactly the same way as another system. However, Apple figured out that significant portions of the Franklin system was copied directly from the Apple II, so they filed a lawsuit in 1983. Franklin admitted that it had copied Apple's software but argued that because Apple's software existed only in binary form, and not in printed form, it could be freely copied, and some of the software didn't have copyright notices on it. The court found in favour of Franklin, but on appeal the court found for Apple, and found that operating systems were also copyrightable. The parties settled.

A&M Records, Inc. v. Napster, Inc.

The Recording Industry Association of America (RIAA) took a lawsuit against Napster, Inc. in 2001 for copyright infringement. Napster was an online service that allowed people to share files with each other (called a peer-to-peer (P2P) file sharing service) focusing on sharing digital audio files. Napster also provided a central server that indexed connected users and files available on their machines, creating a searchable list of music available across Napster's network. Napster claimed that people were sharing files to create backups of music they had already purchased, or sampling music before they were going to purchase it. The Court disagreed, and an injunction was issued ordering Napster to prevent the trading of copyrighted music on its network.

Authors Guild, Inc. v. Google, Inc.

Book authors and publishers from the Authors Guild and the Association of American Publishers took copyright cases against Google between 2005 and 2015. The cases centred on the legality of the Google Book Search tool that transforms printed copyrighted books into an online searchable database through scanning and digitization. However, many authors and publishers had expressed concern that Google had not sought their permission to make scans of their books still under copyright. Google argued that they were scanning these books under fair use, and they worked with the litigants in both suits to develop a settlement agreement which was rejected by 2011. In late 2013 judgement was given in favour of Google, dismissing the lawsuit and affirming the Google Books project met all legal requirements for fair use. This judgement was upheld by the Appeals Court in 2015.