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High Court Sides With RIAA in File-Sharing Case

A WALL STREET JOURNAL ONLINE NEWS ROUNDUP
June 27, 2005 10:51 a.m.

The U.S. Supreme Court sided with the entertainment industry in its legal battle against online file-sharing networks in a decision that has broad implications for Hollywood and Silicon Valley.

The high court said that Grokster Ltd., StreamCast Networks Inc. and other file-sharing companies can be responsible if their software is intended to swap copyrighted music and movies. The unanimous decision reverses two lower-courts rulings, and is a key victory for the recording industry and movie studios. The case was brought by 28 entertainment companies, including giants like Metro-Goldwyn-Mayer Inc., [Walt Disney Co.](#) and [Time Warner Inc.](#)

Grokster makes an Internet tool under the same name that allows individuals to share music or video files for free. StreamCast's file-sharing program is called Morpheus. Unlike the original Napster service, which the courts shut down in 2001 after finding that it aided copyright infringement, Grokster and Morpheus don't upload files to a central location, but rather allows individuals to find the files on each other's computers.

The case hinged on the court's assessment of what percentage of Grokster use was for "substantial noninfringing uses" versus what percentage was used for activities that violated copyright conditions. That language stems from a 1984 case, involving [Sony Corp.](#)'s Betamax video recorder. In that case, the high court ruled that Sony wasn't liable for "contributory infringement" since the video recorder had "substantial noninfringing uses" that didn't run afoul of copyright conditions. Essentially, the court said it was clear the device wasn't designed expressly for breaking the law but left open to interpretation what percentage of use is considered "substantial."

Donald Verrilli, lead attorney for the plaintiffs in the

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GROKSTER TIMELINE

- July 2, 2001** -- Napster shuts music file-sharing capacity after protracted legal battle with record companies
- Oct. 3, 2001** -- Record companies and movie studios sue other file-sharing services, including Grokster
- April 25 2003** -- District Court rules Grokster and StreamCast not responsible for copyright violations
- Aug. 19, 2004** -- Ninth Circuit Court of Appeals upholds lower court ruling
- June 27, 2005** -- Supreme Court sides with entertainment industry

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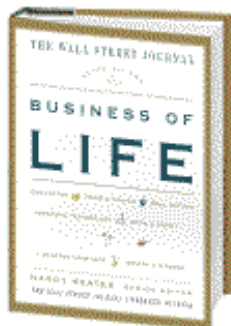
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Grokster case, made his clients' position clear, when presenting his case before the justices in March: "Copyright infringement is the only significant use of Grokster."

Justice John Paul Stevens then asked Mr. Verrilli about the legitimate uses of Grokster, which spurred a lively debate that highlighted the justices' comprehension of file sharing, a subject that has primarily been the domain of teenagers and college students.

Taking Sides in Grokster Case

In addition to file-sharing companies like Sharman Networks Ltd., maker of Kazaa file-sharing software, some less obvious companies, such as chip giant [Intel Corp.](#), sided with Grokster and StreamCast. In supporting file-sharing, companies like Intel are looking out for any future technologies they might come with, since they widely believe that sharing some copyrighted material is crucial to innovation.

In a friend-of-the-court brief filed in this case, Intel said that "Expanding the scope of secondary liability for products that are capable of substantial noninfringing uses would chill innovation and stifle the development of new generations of Intel's products, including products designed to enhance lawful access to copyrighted works."

Tech industry groups such as the Consumer Electronics Association and National Venture Capital Association, as well as the American Civil Liberties Union, also sided with Grokster and StreamCast. In their brief to the court, the NVCA noted that key technologies such as computers, the Internet, email, CD burners, iPods and peer-to-peer file-sharing, can be used for lawful purposes as well as copyright infringement.

Christian groups have long criticized Hollywood, but in this case, the Christian Coalition fell on the side of the plaintiffs, citing their desire to "stop the proliferation of child pornography and other forms of obscenity being distributed by file-sharing companies such as Grokster."

High Court Backs FCC in Brand X Case

Also Monday, the Supreme Court erased uncertainty about Federal Communications Commission oversight of cable-based Internet services, ruling 6-3 the federal agency is free to regulate broadband

Key Players

Motion-picture industry plaintiffs: Metro-Goldwyn-Mayer Studios; Columbia Pictures Industries; Disney Enterprises; New Line Cinema; Paramount Pictures; Time Warner Entertainment; Twentieth Century Fox Film Corp.; Universal City Studios.

Recording industry plaintiffs: Ariata Records; Atlantic Recording; Rhino Entertainment; Bad Boy Records; Capitol Records; Elektra Entertainment; Hollywood Records; Interscope Records; LaFace Records; London-Sire Records; Motown Record; BMG Entertainment; Sony Music Entertainment Inc.; UMG Recordings; Virgin Records America; Walt Disney Records; Warner Brothers Records; WEA International; WEA Latina; and Zomba Recording.

The defendants: Grokster Ltd., StreamCast Networks Inc.

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KEY LEGAL DOCUMENTS

Read a selection of [legal documents](#) from the Grokster case, by arrangement with FindLaw (www.findlaw.com).

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cable services as an information service.

The decision means the FCC can continue regulating cable modem services lightly, allowing companies to deny competitors access to their cable lines. Telecommunications companies, which are in contrast more heavily regulated, are currently required to grant competitors access to their telephone lines.

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The decision is a victory for the Bush administration and the FCC, which concluded that limited access is best for the industry. The majority opinion was written by Justice Clarence Thomas.

More than 19 million homes have cable broadband service. At issue is whether cable Internet access is a "telecommunications service" under federal law that makes it subject to strict FCC rules requiring companies to provide access to independent providers.

The FCC said no, voting in March 2002 to exempt cable companies from the strict rules to stir more investment. The agency reasoned that high-speed Internet over cable was just an "information service," making it different from phone companies.

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