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SUPREME COURT RULES AGAINST GROKSTER

On June 27, 2005, the U.S. Supreme Court ruled Grokster and StreamCast Networks can be held liable for copyright infringements committed by users of their peer-to-peer file-sharing software. The decision in the case Grokster v. MGM is a major win for the motion picture and recording industries, which took the case to the nation's highest court after losing in lower courts over the past two years.

Lawyers for the plaintiffs--Motion Picture Association of America (MPAA), the National Music Publisher's Association of America (NMPA), and the Recording Industry Association of America (RIAA) --asked the court to recognize that Grokster and StreamCast's Morpheus P2P (peer-to-peer) software packages were created primarily to encourage users to illegally trade copyright songs and movies. They argued that while users are responsible for copyright violations, P2P vendors share a secondary liability.

The issue before the Supreme Court in the case focused on whether movie and music companies should be able to sue the P2P distributors for the copyright violations of their users. The Supreme Court ruling gives movie and music companies the ability to sue P2P distributors, sending the case back to a lower court. The entertainment industry had lost its previous attempts to sue Grokster and StreamCast Networks. The 9th U.S. Circuit Court of Appeals had ruled in August that the P2P vendors were not liable for their users' copyright violations.

In the unanimous decision, the Supreme Court found that Grokster and StreamCast were at fault for promoting copyright infringement among users of their products. The judges noted Grokster and StreamCast were both aware that users employed their software primarily to download copyrighted files. It was also noted that both of the companies actively encouraged their users to use their products to download copyrighted works.

Justice David Souter wrote in the decision, "The record is replete with evidence that from the moment Grokster and StreamCast began to distribute their free software, each one clearly voiced the objective that recipients use it to download copyrighted works, and each took active steps to encourage infringement."

Executives from the MPAA and RIAA hailed the decision as one that protects intellectual property and benefits not only the entertainment industry but also consumers. RIAA Chairman and CEO Mitch Bainwol said of the ruling, "This is a landmark decision, the most important judgment involving the music industry in 20 years. It quite simply destroys the argument that peer-to-peer services bear no responsibility for illegal activities that take place on their networks."

PCWorld.com, June 27, 2005 (Juan Carlos Perez and Grant Gross)
<http://www.pcworld.com/resource/article/0.aid.121603.pg.1.RSS.RSS.00.asp>

ABCNews, June 27, 2005 (John Pallatto)
<http://abcnews.go.com/Technology/ZDM/story?id=888772>

RIAA.com, June 27, 2005
Read the press release: <http://www.riaa.com/news/newsletter/062705.asp>

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BRITNEY SPEARS Sued For Copyright Infringement

A U.S. songwriter who claims he wrote an early BRITNEY SPEARS hit is suing the pop star for copyright infringement. Songwriter Steven Wallace of Anderson, Indiana has filed a complaint in U.S. federal court against Spears, Sony/BMG Music Publishing and other record and publishing companies affiliated with the 23-year-old singer.

The suit seeks \$150,000 for each instance Wallace's copyright was infringed upon. Although he acknowledges he did not formally copyright the song, "Sometimes" until 2003, Wallace claims to have written the song in 1990. At that time, he sealed a copy of the song in an envelope, which was then postmarked. Wallace says he began shopping the song around in 1994 and entered it into a lyric contest in 1997.

Artist's
Corner

Spears obtained a copyright for the tune in January 1999 and it is included on her blockbuster debut album, "...Baby One More Time." The song was also included on her 2004 album, "Greatest Hits: My Prerogative."

For the suit, Wallace submitted a side-by-side comparison of his 1990 song with the lyrics in the Spears version to demonstrate that they were nearly identical. The 34-year-old also submitted a copy of an e-mail he claims Spears sent him, identifying him as the songwriter. Wallace's attorney, John Ritchison, claimed he did not have success seeking recognition for Wallace out of court.

CBC Arts, May 12, 2005

<http://www.cbc.ca/story/arts/national/2005/05/12/Arts/spearscopyright050512.html>

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3Q Busts

U.S. Busts

Be sure to peruse the Recording Industry Association of America's (RIAA) monthly newsletter "RIAA Anti-Piracy Seizure Information," which covers numerous bootleg, piracy and counterfeit raids across the United States. Read about the recent busts at our website: <http://www.grayzone.com/usabusts.htm>

Carolina Man Arrested For Selling Fake CDs and DVDs

On May 7, 2005, the Spartanburg, North Carolina County Sheriff's Office seized thousands of dollars worth of counterfeit CDs and DVDs and arrested one man. Deputies were called to Tab's Flea Market after getting a call about fake CDs being sold. When they arrived, they found Billy Ray Hamby, 33, of Greer, North Carolina at a booth with counterfeit movies and albums recorded on generic CDs and DVDs. Investigators said Hamby admitted the discs belonged to him. Deputies also found a CD/DVD copying machine in a sport utility vehicle owned by Hamby. Hamby was charged with selling bootleg and counterfeit items. Deputies estimated that more than \$1,000 worth of CDs and DVDs were seized from the flea market booth.

The Carolina Channel, May 9, 2005

<http://www.thecarolinachannel.com/news/4465906/detail.html>

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Australia

ISP to Face Liability in Australian Infringement Case

An Australian federal court has ruled that two senior systems administrators from the country's Swiftel ISP can face lawsuits for music piracy allegations. Major record labels accused the administrators, Melissa Ong and Ryan Briggs, of blatantly ignoring notices to remove websites that contain copyright violations and infringing content. Specifically, the plaintiffs claimed creation of a BitTorrent file-sharing hub that was used to host thousands of pirated files. The June 27, 2005 decision overrides an earlier ruling that shielded the individuals from liability, with Swiftel lawyers originally convincing the court that the pair had remained within the scope of their employment.

Counsel representing the music industry -- including Warner Music Australia -- told the court Ong and Briggs had been well aware of alleged piracy on the Swiftel network. The trial is scheduled to begin in October, 2005.

Digital Music News, June 27, 2005 (Mona Shokrai)

<http://www.digitalmusicnews.com/results?title=MIPI>

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Brazil

Tech Giants Join Forces to Fight Piracy in Brazil

On June 28, 2005, seven of the world's top electronics and computer goods companies announced that they have joined forces to fight Brazil's vast black market, which costs the country an estimated \$40 billion a year in lost taxes. The companies announced that they have created the Brazilian Legal Institute (IBL) to help gather information on the sale of pirated electronics that can then be passed onto police.

The group includes Microsoft, Dell, Intel, Advanced Micro Devices, Philips Electronics, Matsushita unit Panasonic, and local group Semp Toshiba, which sells Toshiba goods in Brazil. According to the IBL, 64% of software sold in Brazil is illegal and 45 percent of all portable phones, digital cameras and portable sound systems sold do not pay the proper amount of tax. The United States has also threatened to suspend trade benefits to Brazil if it does not do more to crack down on the sale of pirated goods including CDs and DVDs.

CNetNews, June 28, 2005 (Reuters)

http://news.com.com/Tech+giants+join+forces+to+fight+piracy+in+Brazil/2100-7341_3-5766964.html

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Canada

CRIA Crazy About Appeals Court Decision

In May, 2005, The Canadian recording industry (CRIA) appealed a March, 2004 court ruling that ISPs were not required to disclose the names of alleged illegal music uploaders on peer-to-peer file-sharing services. The appeal decision, handed down on May 19, 2005, largely overrules that earlier ruling, opening the way for a wave of new legal actions to be taken against illegal file-sharing in Canada. CRIA has interpreted the appeals court decision as a victory for rights holders, and praised the court for providing clarity and giving rights holders a blueprint to follow when pursuing online copyright infringement cases, "We welcome the court's confirmation that Canada isn't a piracy haven. This was the key issue on which we appealed, and we're delighted that the court agreed with us." CRIA President Graham Henderson said in a statement.

CIRPA.ca, May 20, 2005

<http://www.cirpa.ca/Page.asp?PageID=122&ContentID=789&SiteNodeID=66>

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Oman

Oman Aims High to Become Piracy-Free

Oman has announced its aim to become 70% piracy free in the next five years and is working in close partnership with governments, IT companies and the media to achieve their goal. Countries like Oman, which have increased their fight against software piracy, and support entities like the BSA (Business Software Alliance), are aiming for this piracy-free figure by 2010. The BSA has been organizing awareness campaigns in universities and schools, and conducting seminars for judicial and security bodies about software crime throughout the Middle East. This has helped facilitate an increased realization among governments in the region that an economic advantage can be gained by ensuring the widespread use of legal software. As a result, countries in the region such as Oman, Bahrain, Egypt, Kuwait, Lebanon, Qatar, Saudi Arabia and the UAE have been actively pressing ahead with plans to curb piracy. The BSA has said that they are committed to making every effort to turn Oman into one of the most "piracy-free" countries in the region.

Times of Oman, June 21, 2005 (Adarsh Madhavan)

<http://www.timesofoman.com/newsdetails.asp?newsid=16893>

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Russia

Police Crush 100 Tons of Pirated CDs

On May 31, 2005, Russian police were ordered to destroy 100 metric tons worth of pirated CDs. The unprecedented amount of confiscated merchandise was carried in 10 trucks to a military training range and dumped into a pit, where bulldozers crushed them. The action coincided with a visit by U.S. Commerce Secretary Carlos Gutierrez, who has pushed for Russian authorities to crack down harder on the theft of intellectual property. Despite these most recent efforts, along with continued international pressure, Russia's piracy problem remains out of control. While police continue to announce raids, new knockoffs of the latest CDs, videos and DVDs can still be bought at stores throughout the country for as little as a few dollars.

News From Russia, May 31, 2005 (Associated Press)

http://newsfromrussia.com/main/2005/05/31/60057_.html

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Spain

Weblisten Gets Shut Down

The Spain-based website, Weblisten, which had offered thousands of international and local songs for download and streaming through its website, has been shut down. The move follows Weblisten's admission of criminal copyright infringement in a Spanish court hearing on May 31, 2005.

Weblisten had been making copyrighted music files available online since 1997, despite successive legal actions against it over six years. Until the hearing, Weblisten had maintained that it was operating legally, even though it had secured licenses only from music publishers and not the affected record labels. As part of the final order to be issued in the case, Weblisten was required to destroy its databases of unauthorized music, pay a fine and refrain from engaging in any similar such activities in the future.

Spain has a growing market for online music, with at least 10 legitimate online music services operating in the country including iTunes, MSN Music Club, Tiscali, Vitimanic Music Club and Wanadoo.

IFPI.org June 1, 2005

Read the press release: <http://www.ifpi.org/site-content/press/20050601.html>

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Thailand

Microsoft Praises Regional Piracy Decline, Thailand Not as Good

On June 30, 2005, Microsoft chairman Bill Gates praised the current high level of compliance with intellectual property rights in Hong Kong and Taiwan, while noting that Thailand still had a ways to go.

"If you go back say 15 years and look at Hong Kong and Taiwan, the amount of piracy was close to 100% and now both markets have made substantial progress and the majority of business-used software is licensed," Gates told a press conference in Bangkok.

Gates, the founder of Microsoft, met with Thai Prime Minister Thaksin Shinawatra and announced the launch of three projects with the Thai government designed to help the country take advantage of new technology trends: Microsoft will invest \$3.4 million in Thailand.Net, a world class software system based on XML, a \$1 million e-education project and another \$100,000 to kickstart an e-government project.

When asked how Thailand ranked in terms of software piracy, Gates said, "It's certainly better than Taiwan 15 years ago, but in terms of the awareness of licensing, not as strong as Taiwan is today."

Monsters and Critics.com, June 30, 2005 (DPA)

http://tech.monstersandcritics.com/news/article_1026686.php/Microsoft_praises_decline_in_piracy_in_Hong_Kong_Taiwan

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Legal Beagle

Operation Site Down: The Eleven-Nation Crackdown on Internet Piracy

On June 30, 2005, the Department of Justice announced a huge crackdown on online piracy that has already resulted in raids in 11 countries. "Operation Site Down" has targeted "leading criminal organizations" that illegally distribute and trade in copyrighted software, movies, music, and games on the Net. Since June 29, 2005, the FBI and law enforcement from 10 other countries (Australia, Belgium, Canada, Denmark, France, Germany, Israel, the Netherlands, Portugal and the UK) have conducted over 90 searches geared towards dismantling various file-sharing networks.

The majority of the nearly 100 searches were executed in the US, where four people have been arrested. In a statement, the FBI said the raids had helped dismantle eight major online distribution networks: "By dismantling these networks, the Department is striking at the top of the copyright piracy supply chain - a distribution chain that provides the vast majority of the illegal digital content now available online," said Attorney General Alberto Gonzales. "And by penetrating this illegal world of high-technology and intellectual property theft, we have shown that law enforcement can and will find - and we will prosecute - those who try to use the internet to create piracy networks beyond the reach of law enforcement."

The operation followed three separate undercover investigations conducted by the FBI which identified 120 people as suspects. The investigations focused on individuals and organizations suspected of acting as the original sources for a majority of the pirated works distributed online. The groups targeted by Operation Site Down specialize in the distribution of all types of pirated works including utility and application software (such as Adobe's Photoshop), movies (e.g. Star Wars Episode III: Revenge of the Sith), music, and games.

Among the groups named as targets were: RiSCISO, Myth, TDA, LND, Goodfellaz, Hoodlum, Vengeance, Centropy, Wasted Time, Paranoid, Corrupt, Gamerz, AdmitONE, Hellbound, KGS, BBX, KHG, NOX, NFR, CDZ, TUN, and BHP.

The Register, July 1, 2005(John Leyden)

http://www.theregister.co.uk/2005/07/01/operation_site_down/

RIAA Files New Lawsuits Against 784 Illegal File Sharers

On June 29, 2005, the Recording Industry Association of America (RIAA), on behalf of the major record companies, announced a new wave of copyright infringement lawsuits against 784 illegal file-sharers.

The "John Doe" suits cite the individuals for illegally distributing copyrighted music on the Internet via unauthorized peer-to-peer services such as KaZaa, LimeWire and Grokster. The litigations were filed in federal district courts across the country, including: California, Colorado, Georgia, Missouri, New Jersey, New York, Pennsylvania, Virginia and Washington.

As a member of Music United – a broad coalition composed of virtually every component of the recording industry and music community – the RIAA is also involved in the launch of multiple educational initiatives, including a worldwide campaign with Childnet International to help parents understand how to keep their children safe and legal when downloading music on the Internet.

According to the RIAA, the new lawsuits and education initiatives are part of a continued effort to promote legal online services, educate fans about the right and wrong way to enjoy digital music, and enforce its rights through the legal system.

RIAA.com, June 29, 2005

Read the press release: <http://www.riaa.com/news/newsletter/062905.asp>

=====SIDEBAR=====

Are NZBs Worse Than P2Ps?

Usenet is a world-wide distributed discussion system that just could be the next big problem for the recording industry in its ongoing fight against illegal file-sharing. Often referred to as the "old Internet," Usenet consists of a set of "newsgroups" with names that are classified by subject. "Articles" or "messages" are posted to these newsgroups by people on computers with the appropriate software -- these articles are then broadcast to other interconnected computer systems via wide variety of networks. With the arrival of the World Wide Web, Usenet has become outdated, and unknown to many. However, a new file format, NZB, and the rise of commercial high-bandwidth Usenet services -- such as NewsGroups and Usenet.com -- are fueling the revival of Usenet. Pirates are now discovering that the old newsgroup system, patched with modern technology, outperforms most other peer-to-peer networks in illegally sharing files on a grand scale. Music and movies can be buried within the newsgroups as NZB files, available to anyone with an Internet connection and the right software.

Whether the RIAA and MPAA actually have their sights trained on Usenet is yet to be seen. The RIAA has targeted those who share via P2P networks, and have just recently focused attention to those who download. Websites hosting files are single points for the RIAA to attack and shut down. In comparison, Usenet is a massive sprawling entity, with thousands of points of entry. The old Internet could very well become the new haven for pirates worldwide as well as the new challenge for the entertainment industry in its continuing fight against piracy.

Wired News, May 23, 2005 (David McCandless)

<http://www.wired.com/news/digiwood/0.1412.67588-2.00.html>



Quick Bits and Bytes

Intel to Offer Film Downloads

Actor Morgan Freeman and computer-chip giant Intel have teamed up to distribute premium movies to consumers over the Internet before the films become available on DVD. Intel is investing an unspecified amount in the new venture called ClickStar, formed by Revelations Entertainment, a company Freeman created in 1996 with producer Lori McCreary.

Hollywood has been reluctant to offer digitized movies directly to consumers on the Web, fearful of suffering a similar fate as the music industry, which has been hit hard hit by piracy enabled by file-swapping services.

Freeman said his deal with Intel should avoid those pitfalls by giving customers a "simple, easy and attractive" alternative to piracy.

New York Daily News, July 7, 2005 (Associated Press)

<http://www.nydailynews.com/07-07-2005/business/story/325743p-278401c.html>

Live 8 Piracy at eBay

On July 5, 2005, Internet auction site eBay announced it had begun removing illegal DVD copies of the Live 8 poverty awareness pop concerts from its website, after the record industry complained. Some of the pirate recordings at eBay, with bids of up to \$31, were on sale 24 hours after the event ended. Ten concerts took place in all, from Tokyo to Toronto, and more than a million people turned up to see the lineup of rock stars.

While the concerts were free, EMI reportedly paid millions of dollars for the rights to release the official DVD of the Live 8 event, organized by BOB GELDOF to put pressure on world leaders to do more to beat poverty. eBay had already been labeled an "electronic pimp" by Geldof after free Live 8 tickets appeared on the site ahead of the July 3, 2005 concerts. The auction site also suspended some accounts of users who placed hoax bids for the tickets of up to £10 million in order to sabotage the sales.

CNNMoney.com, July 5, 2005 (Reuters)

http://money.cnn.com/2005/07/05/news/international/live8_reut/

IFPI Launches Commercial Piracy Report 2005

A new piracy report released by the International Federation of the Phonographic Industry (IFPI) on June 23, 2005, estimates that one in three music discs sold worldwide is an illegal copy. According to IFPI, this has resulted in a huge \$4.6 billion music pirate market that destroys jobs, kills investment and funds organized crime. Despite the huge scale of the problem, IFPI notes that some governments have taken encouraging steps to address music piracy since 2003.

According to the Commercial Piracy Report 2005, a total of 1.2 billion pirate music discs were sold in 2004 – 34% of all discs sold worldwide. But growth in disc piracy has slowed to its lowest level in five years, partly due to stepped up enforcement efforts in countries including Brazil, Hong Kong, Mexico, Paraguay and Spain. IFPI launched the report in Spain, Europe's most serious piracy problem country where rampant street CD piracy has shrunk the legitimate market by one third in the last three years.

The IFPI report also named the top 10 countries where piracy levels are at unacceptable levels and where additional government action is urgently needed. They are: Brazil, China, India, Indonesia, Mexico, Pakistan, Paraguay, Russia, Spain and Ukraine.

IFPI Chairman and CEO John Kennedy said: "Over the next few years governments and society are going to have to learn to take piracy more seriously - piracy not just of music, but in all its forms. It is no longer acceptable for governments to turn a blind eye, or to regard piracy as merely a small irritation to society. The illegal music trade is destroying creativity and innovation, eliminating jobs and bankrolling organized crime."

IFPI.org June 23, 2005

Read the press release: <http://www.ifpi.org/site-content/press/20050623.html>

Microsoft Announces Avalanche

Microsoft researchers are in the process of developing a peer-to-peer software application that will provide an alternative to the existing controversial file-sharing systems. The file-sharing software, code-named Avalanche, divides content into blocks of data that can be shared easily. The system "leverages" desktop PCs for file distribution, rather than relying on servers or network links.

File-sharing systems have come under attack in the past year, as organizations like the Motion Picture Association of America (MPAA) and RIAA have called for more legislation to shut them down, arguing that the amount of copyrighted work being traded is an indication of widespread online piracy.

Microsoft's Avalanche could provide an alternative that works well with both users and copyright holders. The researchers noted that users will be unable to redistribute content without approval by the publisher. This type of digital rights management (DRM) system might lessen illegal distribution and boost the amount of legitimately obtained content that users choose to download. Microsoft has not yet committed to a release date for the new software, although they have noted it might be soon.

Yahoo! News, June 20, 2005 (Elizabeth Millard)

http://news.yahoo.com/news?tmpl=story&u=/nf/20050620/tc_nf/36584

New Study Confirms Hollywood's Fears

A June, 2005 study has uncovered some discouraging trends in Hollywood's continuing fight against online film piracy. The NPD Group, a market research company, has found that an increasing number of Internet surfers have large video files on their home computers. A dramatic increase of about 60% over last year in the number of households with video files of 150 megabytes or larger has taken place. In 2004, these same households averaged 16 such files, less than half the estimated amount for households in 2005. The results were determined by monitoring computers of 40,000 volunteers.

While some files might have come from legitimate movie-downloading services like CinemaNow, the majority were clearly not obtained legitimately, according to Russ Crupnick, president of NPD's music and movies division. The alarming trend uncovered by the new study confirms Hollywood's growing concerns regarding the spread of rampant online film piracy and its growing effect on the movie industry.

The New York Times, June 13, 2005 (Alex Mindlin)

<http://www.nytimes.com/2005/06/13/technology/13drill.html?ex=1119585600&en=d522f26a45564a10&ei=5070&th&emc=th&oref=login>
(requires free registration)

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