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Supremes Rule Against Grokster

The Supreme Court, in a unanimous decision, ruled that peer-to-peer networks can be held financially liable for infringement activities on their networks, according to the Wall Street Journal. While the ruling itself doesn't mean that companies such as Grokster will...

By Brad King

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The Supreme Court, in a unanimous decision, ruled that peer-to-peer networks can be held financially liable for infringement activities on their networks, according to the *Wall Street Journal*.

While the ruling itself doesn't mean that companies such as Grokster will be held liable for damages, it does mean the Supremes believe there is enough evidence that they could be held liable. The decision shoots the case back to a lower court, allowing a jury trial to occur.

From an Associated Press story:

The unanimous decision sends the case back to lower court, which had ruled in favor of file-sharing services Grokster Ltd. and StreamCast Networks Inc. on the grounds that the companies couldn't be sued. The justices said there was enough evidence of unlawful intent for the case to go to trial.

My writing partner, John Borland, over at CNet posted a quick and dirty piece with a quote from Justice David Souter, who said that anyone involved in making technology that allows people to share copyrighted materials should be held liable.

Now, I'm not going to jump off the bridge yet, because I haven't had time to sift through the entire ruling – but, on first blush, this should frighten technology companies across the United States.

Of course, it does appear as if we're moving towards a time when we will become a Third World nation with some technology development. Already, national courts in other countries have ruled that people – not companies – are liable for the way they use a technology. They seem to understand that innovation, at its best, oftentimes occurs in a place outside of commercial interests. Holding those people accountable for how a technology is later deployed will, I fear, send corporations into hiding.

Putting the onus on innovators to perceive how users will implement a technology shows an amazing lack of foresight by the Supremes. Much of the innovation on computing networks came, not with a grand plan in mind, but with the idea that if you build something that connects people together, they will find ways to use that technology.

I had the pleasure of covering the Napster fight with the music industry from late 1999 until the end of 2002, and it was clear that the entertainment industry is less concerned about technology and more concerned about protecting their business model. They have shown an amazing lack of foresight in regards to digital business models, and have instead focused on holding back innovation.
While that isn't a position I agree with, it is one that I understand. The financial futures of their industry are, to some extent, hanging in the balance – and, as someone who now has a small staff, I understand the desire to protect the interests of the people around me.

The methodology employed by the Recording Industry Association of America and its partner plaintiffs, though, has pitted this battle as an us (technology companies) versus them (copyright holders).

However, the music industry's position, I think, would be greatly enhanced were they ever to extend an olive branch to the technology community.

by Brad King

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