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# Supreme Court Hears File-Sharing Case

By Ted Bridis  
 AP Technology Writer  
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The Supreme Court expressed concerns Tuesday over allowing entertainment companies to sue makers of software that allows Internet users to illegally download music and movies, questioning whether the threat of such legal action might stifle Web innovation.

During a lively argument, justices wondered aloud whether such lawsuits might have discouraged past inventions like copy machines, videocassette recorders and iPod portable music players -- all of which can be used to make illegal duplications of copyrighted documents, movies and songs.

Justice Stephen G. Breyer said the same software that can be used to steal copyrighted materials offered at least conceptually "some really excellent uses" that are legal.

Justice Antonin Scalia maintained that a ruling for entertainment companies could mean that if "I'm a new inventor, I'm going to get sued right away."

While seeming leery of allowing lawsuits, the court also appeared deeply troubled by efforts of the companies that manufacture so-called file-sharing software to encourage Internet piracy and profit from it.

Justice Anthony M. Kennedy pressed a software lawyer on the question of whether profits from trafficking in stolen property can rightfully be used to help finance a young technology business. "That seems wrong to me," he said.

Two lower courts have sided with the software makers, Grokster Inc. and StreamCast Networks. How the justices rule could redefine how consumers can watch television shows and films and listen to songs that increasingly are delivered in digital formats.

Supporters of file-sharing technology say a ruling against the software companies could effectively give the entertainment industry a legal veto over up-and-coming gadgets; they fear the threat of expensive lawsuits could hamper development of new devices.

The case has star power on both sides.

Don Henley, Sheryl Crow, the Dixie Chicks and other musicians are backing the major recording labels, saying their livelihoods are threatened if millions of people can obtain their songs for nothing.

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About 20 independent recording artists, including musician and producer Brian Eno, rockers Heart and rapper-activist Chuck D, support the file-sharing technology. They say it allows greater distribution of their music and limits the power of huge record companies.

Regardless of the outcome, it still won't be legal to download copyrighted materials over the Internet without permission, though tens of millions of computer users do so each day. And any ruling won't affect thousands of copyright lawsuits filed individually against Internet users caught sharing music and movies online.

But a victory for the entertainment companies would allow lawsuits that could drive companies that make file-sharing software out of business. It also would effectively overturn rules that have governed technology companies for more than two decades: Manufacturers can't be sued for copyright violations committed by customers using their products illegally.

Dan Glickman, head of the Motion Picture Association of America, said the film industry will keep trying to get consumers to buy legal digital movies. "Consumers want a legal, hassle-free, reasonable-cost way to get their products online," he said in an interview Monday with editors from The Associated Press.

Mitch Bainwol, chief executive of the Recording Industry Association of America, told the AP editors: "We are doing all the things we should be doing to move into this digital age. That is true no matter what the outcome" of the case.

Still, the entertainment companies face an uphill battle with the high court.

The trial judge and a U.S. appeals court quoted the Supreme Court in ruling the same file-sharing software millions of people use to steal music and movies also can be used for "substantial" legal purposes, such as giving away free songs, free software or government documents. They reasoned that gave the software's manufacturers protection from copyright lawsuits based on acts by their customers.

The trial court in Los Angeles and San Francisco-based U.S. Court of Appeals for the 9th Circuit based their decisions on the 1984 Supreme Court "Betamax" case. The justices ruled Sony Corp. couldn't be sued for copyright infringement if some customers used their VCRs to make illegal copies of movies.

Entertainment companies argue the file-sharing companies should not have blanket protection from copyright lawsuits, especially when they know about and profit from wide-scale piracy. Court documents said some file-sharing software companies earned millions of dollars annually from advertisements built into their software, and ad revenues climb as more people use the software.

The case is Metro-Goldwyn-Mayer Studios v. Grokster, 04-480.

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