



## **CDT Supports Balanced Ruling in MGM v. Grokster**

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Contact: David McGuire  
Center for Democracy and Technology  
(202) 637 9800

The Supreme Court today unanimously ruled that Grokster Ltd. and StreamCast Inc. — two producers of "file-sharing" software — could be held liable for inducing Internet users to illegally download copyrighted works. But the court upheld the principle that simply creating technology can't expose inventors to liability under copyright law.

"This is a sophisticated ruling in a difficult case," Center for Democracy and Technology President Jerry Berman said. "The court has worked to craft careful balance that allows copyright owners to pursue bad actors, but still protect the rights of technology makers. We hope this decision will preserve the climate of innovation that fostered the development of everything from the iPod to the Internet itself."

The High Court found that the entertainment industry had presented ample evidence that Grokster and StreamCast lured customers by promoting easy, illegal access to copyrighted material. Companies that actively "induce" Internet users to infringe copyrighted works can be held liable for infringement under existing copyright law, the court found. The ruling doesn't upset the technology safe harbors established by the court in its landmark 1984 ruling in the Sony Betamax case.

In its brief to the court, CDT said "Grokster's conduct in this case may well give rise to liability. Although the Sony defense shields technology vendors' design, manufacture, distribution, general advertising, and routine support activities from secondary liability, that safe harbor does not extend to a vendor's other conduct."

CDT Staff Counsel David Sohn said "It remains to be seen how some aspects of this ruling will be interpreted, but the Supreme Court avoided many tests that would have entangled lower courts and lawyers in the technology design process." Sohn said. "We never felt that Grokster and StreamCast were innocent parties that should get a free pass, but there's a principle at stake here that's much larger than the peer-to-peer issue. Since 1984, the rule has been that developers of technologies that have legal uses aren't liable when users misuse those technologies to infringe copyright."

"This decision offers a framework for the courts to distinguish bad actors from those who merely distribute innovative technologies," Sohn added. "Drawing this line is critical for the continued advancement of digital technology and free expression online. "

For further analysis of the importance of the Grokster case in the larger copyright debate, see CDT's paper: Protecting Copyright and Internet Values, available on CDT's Web site at <http://www.cdt.org/copyright/20050607framing.pdf> .