

Library Copyright Alliance


American Association of Law Libraries
MAXIMIZING THE POWER OF THE LAW LIBRARY COMMUNITY SINCE 1906

 American
Library
Association

 Association
of Research
Libraries

 MEDICAL LIBRARY
ASSOCIATION
Quality information for improved health
www.mlanet.org

 SLA
Connecting People
and Information

From: American Library Association (ALA) on behalf of the Library Copyright Alliance (ALA, Association of Research Libraries, American Association of Law Libraries, Special Libraries Association, and Medical Library Association)

Topic: Interpreting Grokster: What is the Practical Impact and What is Left for Congress to Do?

On June 27, 2005, the U.S. Supreme Court held in *Metro-Goldwyn-Mayer Studios v. Grokster* that the distributors of peer-to-peer (P2P) file-sharing software could be liable for copyright infringements committed with their software. The Court, in a unanimous ruling, declared that distributors of P2P systems may be held liable if they actively induce copyright infringement by users of those P2P systems.

Importantly, the Court strongly reaffirmed its earlier ruling in *Sony Corp of America v. Universal City Studios*, which held that technologies could not be outlawed if they were capable of substantial non-infringing uses. The Supreme Court acknowledged the positive uses of P2P technology, stating that “[g]iven these benefits in security, cost, and efficiency, peer-to-peer networks are employed to store and distribute electronic files by universities, government agencies, corporation, and libraries....” The Library Copyright Alliance welcomes this balanced decision that supports the interests of libraries while addressing issues of widespread copyright infringement. By focusing on conduct that induces infringement, rather than on the distribution of technology, the decision ensures the continued availability of new and evolving digital technologies to libraries and their patrons.

Because the Court decided the case by discovering active inducement of infringement, rather than revising the substantial non-infringing use rule announced in *Sony v. Universal*, we hope that the decision will have little adverse impact on libraries. This is particularly so because libraries already fulfill statutory requirements to take affirmative steps to discourage infringement (posting the Section 108(f)(1) notices by photocopiers) and are highly unlikely to engage in any other inducing conduct.

Given that the Court seems to have found an appropriate balance between content owners and technology companies, libraries believe that congressional action is not called for at this time.

Contact: Miriam Nisbet, Legislative Counsel, American Library Association, 1301 Pennsylvania Ave., NW, Suite 403, Washington, DC 20004, (202) 628-8410, mnisbet@alawash.org