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# Supreme Court: File-Sharing Firms Can Be Sued

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Distributors of popular software for sharing music and videos online can be sued if they encourage their users to illegally swap copyrighted works, a unanimous U.S. Supreme Court ruled today.

The case hands a partial victory to the entertainment industry in its campaign to shut down file-sharing systems that enable hundreds of millions of consumers around the world to swap music, videos and software programs.

The decision means that movie and recording studios can pursue lawsuits against file-sharing providers even though people use the programs to trade directly with each other, outside the control of the software makers.

The industry, which claims to have lost billions of dollars to music and video piracy, lost several previous attempts to punish file-sharing providers for the actions of their users. The industry has also filed suit against individuals users.

Under a landmark decision in 1984, the Supreme Court ruled that distributors of new technologies could not be held liable for illegal acts by customers if the technology has "substantial" legal uses. That case involved Sony Corp.'s Betamax video recording machine.

In the past few years, that decision was relied on by file-sharing companies such as Kazaa, which argued that "peer-to-peer" trading was important new technology that enables legal swapping of content that is either not copyrighted or is traded with permission of the creator.

Technology firms and consumer electronics companies also vigorously defend the 1984 ruling, arguing that without such protection new technologies could be killed at birth. Instead, they argued, efforts to halt piracy should focus on the pirates, not the technology.

In the current case, the U.S. Court of Appeals for the 9th Circuit threw out a lawsuit led by MGM Studios against two large file-sharing providers, Grokster Ltd. and StreamCast Networks. The appeals court ruled that the 1984 Betamax ruling absolved the software makers of liability for contributing to piracy.

But the Supreme Court sent the case back for trial, ruling that the Betamax decision did not provide cover for firms if they encourage piracy to build their business.

"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," Justice David Souter wrote in the unanimous

opinion.

But the court stopped short of granting the entertainment industry's push to refine the Betamax ruling. The industry had argued that liability should be determined based in part on how much a product was being used for illegal purposes.

"We do not revisit [the Betamax case] further, as MGM requests, to add a more quantified description of the point of balance" in determining when liability for product makers should apply, the court said.