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IP Court Case Analysis

*MGM Studios v. Grokster* was a 2005 case between the petitioner, Metro-Goldwyn-Mayer Studios Inc., et al., and the respondent Grokster, Ltd., et al. The case was based on the understanding that Grokster's self-named file-sharing software facilitated the mass copyright infringement of filmmakers, artists, musicians, and others. Because the software architecture allowed end-users to connect with one another, as opposed to a central server, the task of addressing individual users proved insurmountable, forcing the petitioner to take action against Grokster. The United States Supreme Court unanimously held that Grokster was liable for damages caused to MGM, stating that Grokster "distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, [and therefore] is liable for the resulting acts of infringement by third parties" (Cornell, MGM).

The Court's ruling in this case is rather striking. The decision that a company can be liable for actions taken by its userbase goes directly against The Court's decision in *Sony Corporation of America v. Universal City Studios, Inc.* In this similar case 20 years prior, The Court ruled that Sony's sale of a home video tape recorder "does not constitute contributory infringement of respondents' copyrights" (Cornell, Sony). The fact that these cases reached such drastically different verdicts concerning a user's decisions with a product makes it challenging to provide insight regarding how writers can proceed. Even more so, the fact that justices Stevens and O'Connor sided with the majority opinion in both cases indicates just how difficult it can be for anyone – justices included – to adequately analyze and respond these situations in a manner that is fair to both producers and consumers. In addition to the Supreme Court's ruling on the

*Sony* case, the Northern District Court of California has also made rulings on software more similar to that of Grokster. In 2000, the District Court ruled that a software startup Napster, whose software performed a similar task to that of Grokster, received an injunction from the District Court, preventing them “from engaging in, or facilitating others in copying, downloading, uploading, transmitting, or distributing plaintiffs' copyrighted musical compositions and sound recordings, protected by either federal or state law, without express permission of the rights owner” (Justia). In spite of the complications that these other cases present, there is still ample advice that can be provided to those interested in developing technologies like Grokster.

To begin, looking into what lead to the difference in opinions from The Court and the District Court can alleviate some concerns. The Court held in *MGM* that Grokster had taken a stance “to foster infringement” (Cornell, MGM). Further analysis of the case reveals that the defendant Grokster et al. had, following the results of Napster’s case, released a “software program of a kind ... designed ... ‘to leverage Napster’s 50 million user base’” (Cornell, MGM). Additionally, the defendant had a number of “internal company documents” and a “kit developed ... to be delivered to advertisers” which indicated their intent “to be the next Napster” (Cornell, MGM). Generally speaking, Grokster positioned itself as a replacement to fill a role that had been deemed illegal. Had Grokster avoided portraying themselves as a new Napster, the case could have been staggeringly different. This indicates that the technology Grokster developed is not necessarily illegal, but the methodology behind their marketing and overall approach was.

To contrast this with the *Sony* ruling helps to indicate what conditions might make it so that a company can distance itself from the actions of its users. Universal, paralleling MGM, claimed that “supplying the ‘means’ to accomplish an infringing activity and encouraging that

activity through advertisement are sufficient to establish liability for copyright infringement” (Cornell, Sony). The Court responded that only in cases where “the ‘contributory’ infringer [i]s in a position to control the use of copyrighted works by others and had authorized[s] the use without permission from the copyright owner” does the “contributory” infringer violate the copyright of the infringed material’s owner. In the case of Sony, the technology of the time prevented them from knowing what – potentially copyright-infringing – actions their users were taking. Grokster, however, benefited from an infrastructure and software that could provide this information, and as such, help prevent infringement.

Being a 14-year-old case, most companies have had time to respond to and comply with the new demands of this type of case. In *Sony*, The Court’s provision on what counts as, and more importantly what prevents, “contributory infringement]” has prompted many companies internally track and store user activity, allowing them to respond to any copyright infringement before it gets out of hand. This prevents them from being a “contributory infringer” in any legal matters that arise. Grokster, meanwhile, has provided less legal instruction, and more practical instruction. In the case where a product can potentially be used for illegal purposes, it is in the best interest of the company to avoid professing this as their primary marketing strategy.

Additionally, should a company dissolve following a legal battle in which said company is found to be in the wrong in court, it is usually in the best interest of other companies in the industry to cease doing whatever it is that the former has done, and to actively avoid closely associating a new company with the folded one. To summarize, companies who want to develop software or other products that have the potential to be used for illegal purposes can and should exercise the right to do so, but must be aware of how the majority of users end up using these products, and

should avoid any close association or acknowledgement of their own relationships with agencies that have already been deemed illegal.

Works Cited

- Cornell University Law School. "METRO-GOLDWYN-MAYER STUDIOS INC. V.GROKSTER, LTD." *Legal Information Institute*, Cornell University, 27 June 2005.
- Cornell University Law School. "SONY CORPORATION OF AMERICA, Et Al., Petitioners v. UNIVERSAL CITY STUDIOS, INC., Etc., Et Al." *Legal Information Institute*, Cornell University.
- Justia Law. "A & M RECORDS, INC. v. Napster, Inc., 114 F. Supp. 2d 896 (N.D. Cal. 2000)." *Justia Law*.