**A & M Records v. Napster, Inc. Case Brief**

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I. Opening

Case: A & M Records v. Napster, Inc.

Citation: 239 F.3d 1004 (2001)

Court: United States Court of Appeals for the Ninth Circuit

Plaintiff - A & M Records with all members of the Recording Industry Association of America

Respondent - Napster Inc.

Argued Date – October 2, 2000

Filing Amended – April 3, 2001

II. Facts

A&M Records dealt with the recording, distribution, and sale of copyrighted music and Napster Inc. dealt with peer to peer file sharing that allowed its users to share the mp3 files available on their own computers which other Napster users could download. Napster however, did not upload or distribute any of its material and only had the ability to block access to users who infringed copyright and remove the infringed material. A & M sued Napster stating that Napster allegedly contributed to copyright infringement. Trial court found Napster liable and granted a preliminary injunction for which Napster appealed.

III. Issue

Is the owner of the software responsible in any degree if it’s users upload and share material which is an infringement to a copyright?

IV. Decision

Yes.

V. Rationale

The owner of a software can be found guilty od secondary copyright infringement in two cases: if it aware of direct infringement that is prevalent with the users of the software or is contributing towards infringement. Additionally, vicarious copyright liability applies to Napster since it had both: that ability to supervise copyright infringement and it received financial interest. Since Napster was found guilty of both, the court ruled against Napster.

VI. Holding

The owner of a software can be guilty of secondary copyright infringement if its users upload and share copyrighted music.

VII. Opinion

I agree with the decision of the court. I believe Napster would have been not responsible if it exercised monitoring of copyright infringement on the content shared and uploaded by the users. However, since they failed to do so, the are responsible for secondary copyright infringement.