

# Legal History

Ron Jacobi

Bryan Cave, LLP

General Counsel and Executive VP,  
Sony Pictures (former)

# SONY CORP. v. UNIVERSAL STUDIOS

United States Supreme Court (1984)

a.k.a. "the Betamax case"

This case was brought by the motion picture studios against Sony when it introduced the first home VCR. The Supreme Court in a 5 to 4 decision ruled that, because the Betamax was used primarily for non-commercial home time-shifting which did not result in substantial harm to the copyright holders, such use was "fair use" and not an infringement. The court also held that, because the Betamax was capable of substantial non-infringing uses, Sony's sale of the Betamax to the public did not constitute contributory infringement.

# DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) (1998)

This law is designed to protect creative works in the digital era. It prohibits the manufacture and distribution of devices, the primary purpose of which is to circumvent the devices protecting copyrighted material. This prohibition enables enforcement against those seeking to pirate copyrighted works. The law also includes provisions that clarify the rights of copyright owners and the responsibilities of online service providers to guard against piracy online.

# A&M RECORDS, et al. v. NAPSTER, INC.

## United States Court of Appeals for the Ninth Circuit (2001)

This case was brought by the record companies against Napster. The Court of Appeals upheld the District Court's conclusion that Napster may be secondarily liable for the direct copyright infringement under two doctrines: contributory copyright infringement and vicarious copyright infringement. The Court of Appeals agreed with the District Court that the record companies presented a prima facie case of direct copyright infringement by Napster users. The Court of Appeals also agreed with the District Court's rejection of Napster's affirmative defense that its users are engaged in "fair use" of the copyrighted material.

The Court of Appeals upheld the District Court's conclusion that Napster may be secondarily liable for the direct copyright infringement under two doctrines: contributory copyright infringement and vicarious copyright infringement. As to the contributory copyright infringement claim, the Court of Appeals concluded that Napster knowingly encourages and assists its users to infringe the record companies' copyrights and Napster materially contributes to the infringing activity. As to the vicarious copyright infringement claim, the Court of Appeals concluded that Napster has a direct financial interest in its users' infringing activity and retains the ability to police its system for infringing activity.

# UNIVERSAL CITY STUDIOS, INC., et al. v. ERIC CORLEY

United States Court of Appeals for the Second Circuit  
(November 2001)

To prevent the unauthorized copying of their digital files, including DVDs, the motion picture studios adopted an encryption algorithm called "Content Scramble System" or CSS. This case was brought by the motion picture studios against a man who had posted for download on his web site, a program called DeCSS that decrypted encrypted DVDs. The court held that the DMCA bars decryption code and that the posting of the DeCSS code was a violation of the anti-circumvention provisions of the DMCA and not protected as speech under the First Amendment to the Constitution. The court ordered an injunction against the posting.

# **METRO-GOLDWYN-MAYER STUDIOS INC., et al. v. GROKSTER LTD., et al.**

United States District Court for the Central  
District of California (April, 2003)

This case brought by the motion picture studios and record companies against the P2P file sharing services Grokster and Streamcast, which unlike Napster did not offer copies of copyrighted works on their servers. The District Court held that the file sharing services were not vicariously liable for copyright infringement committed by the users of their software. The case is on appeal to the United States Court of Appeals for the Ninth Circuit. This ruling lead to the decision of the record companies to identify and bring suits against individuals who made available for upload large numbers of copyrighted songs.