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No Pot of Gold in Court Ruling for the Studios

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Nine United States Supreme Court justices down, tens of millions of file-swapping consumers to go.

The court's unanimous decision against Grokster and StreamCast Networks, the developer of the Morpheus file-swapping system, means companies that intentionally encourage copyright infringement can be held liable. But even armed with a decision enabling them to haul technology developers into court, the entertainment companies probably still face a long, slow grind in influencing consumers to alter their habits.

The Grokster ruling is clearly good news for both the music and movie industries. An adverse ruling would have been devastating, because it would have limited the industries to using the costly strategy of pursuing pirates one at a time. But it may take the music industry, which has blamed rampant piracy for its sagging sales, a long time to translate the ruling into a financial turnaround.

For the film studios, the victory provides some much-needed breathing room. Movies are not as commonly downloaded as music, because the files are larger and take longer to transmit. Movie executives have developed fledgling systems for the legal downloading of movies, but those businesses have yet to connect with a mass audience. The ruling means they will probably face less competition from unauthorized free services, giving them a chance to develop those systems, if they choose.

With the ruling, which also sent the case back to the district court level, the major music labels and movie studios are expected to take aim at an array of companies that distribute peer-to-peer software. They are also expected to loose a new round of warnings to college administrators and business owners to restrict file sharing on their computer networks.

The decision also provides a chance for authorized online music services, like [iTunes](#) from [Apple Computer](#) and Rhapsody from [RealNetworks](#), to trumpet their own offerings. RealNetworks, for instance, plans to run full-page advertisements today in several newspapers, including [The New York Times](#), promoting its recently started free service that allows users to hear and share 25 songs a month online. The advertisement has the large image of a gavel, above a text block that promises "No hassles, no lawsuits."

Hollywood has been experimenting with Internet downloading services that charge a few dollars a movie, or a monthly fee like Movielink, CinemaNow, and Starz on RealNetworks. But those services offer a far smaller selection than the neighborhood Blockbuster store or [Netflix](#), the mail-order movie rental service.

With the ruling, movie executives hope they will be able to further develop their online businesses from a position of strength, unlike the music business, which made little effort to create licensed services until piracy was already widespread.

Entertainment executives said they believed that the sheer publicity about the hotly anticipated court decision might dissuade young music fans from continuing to trade copyrighted material freely.

"Tonight parents all across the country will go home to have conversations with their kids and say there is a right way and a wrong way to enjoy music," said Mitch Bainwol, chairman of the Recording Industry Association of America, the lobbying group for the major music labels.

But others said the ruling was not likely to translate to any real change in consumer behavior. An estimated six million Americans are using file-sharing networks at any one time, according to estimates from BigChampagne, which studies online activity. The overall number of people using the networks, meanwhile, is estimated to be in the tens of millions. Young music fans have had five years or more to become accustomed to the easy acquisition of free music files that can be easily burned to CD's, transferred to portable music players like Apple's [iPod](#), and shared without restriction.

For executives expecting families to take account of their online activity, "I think that's very wishful thinking, because I think most parents don't know what Grokster is," said Andy Gershon, president of the independent music label V2, which releases music by artists like The White Stripes and Stereophonics. "Are morals and ethics passed down at a dinner table based on what the Supreme Court says?"

The music companies have been trying desperately to regain their footing in the marketplace since 1999, when the pioneering file-swapping service [Napster](#), created by a college dropout named Shawn Fanning, vastly accelerated the flow of free, unprotected music files online.

After years of infighting over how to proceed in the digital realm, the music companies licensed an array of services to sell downloads and subscriptions, including iTunes, which charges 99 cents a song. The labels, meanwhile, have also tried to retain fans of the old-fashioned compact disc, enticing them with price cuts, contests and extra content like music-video excerpts.

In their most controversial step, the entertainment companies have filed lawsuits against individual computer users. The major labels, for instance, have sued some 11,700 people since September 2003, and have settled with about 2,500 of them for an average of \$3,700 each.

Music executives said the decision strengthened their hand. It may force providers of file-swapping software to filter free or unauthorized material out of their networks or face litigation.

"Services that live off stealing are going to start to go down, and their advertisers will soon begin pulling their business," said Zach Horowitz, president of the Universal Music Group.