



**Crow believes Grokster is a boil and needs to be Lanced.**

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## CROW PECKS AWAY AT GROKSTER

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An Op/Ed Piece From RAC's Sheryl Crow

April 1, 2005

*Sheryl Crow, who moonlights as a musician when she's not pursuing her duties as VP of the **Recording Artists' Coalition**, issued a commentary on Thursday elucidating RAC's stance on **MGM v. Grokster**. Here's the complete text of Crow's commentary.*

I love music and I'm certainly not alone. Music plays a major role in the lives of billions of people and they want to be able to access it and have it whenever and wherever they desire. There are services that everybody can use to acquire the music and pay a reasonable fee for it.

There is also a service out there called Grokster that allows people to access almost anything they want, without paying for it.

But, if nobody pays for it, how do the musicians, singers, arrangers, engineers, producers and songwriters get paid? How about the people who create the CD and DVD artwork and photography? What about the people who work in the plants that manufacture the CDs and DVDs or the people who work in music stores. Their livelihoods depend on people paying for the music that is created. If these people are not paid, how do they pay their rent and the utility bills? How can they afford transportation or groceries? The highly visible "stars" who we hear on the radio and see on TV represent less than 5% of the music world. The rest of that world consists of ordinary people who work hard to support themselves and their families and who often struggle just to make ends meet. The musicians, the singers and songwriters among them, are all dreaming of that big break, but few of them will get it.

The music business works like this: a record company hires talent scouts to find talent, producers to produce recordings, promotion and marketing people to make the public aware of the recordings, manufacturing, sales and web people to make and distribute the records. The money from the *sale* of recordings pays everyone's salaries: the company's employees and the artists, producers, songwriters, musicians, singers and engineers who make the recordings.

It is illegal and a copyright infringement to duplicate, distribute, upload or download a copyrighted recording without permission of the owner of the recording (other than to make a single copy for personal, non-commercial use); thus, what the public is doing by using Grokster for this purpose is illegal.

Grokster was sued by numerous copyright owners. In defending their decisions in favor of Grokster, the lower and appellate courts have said that the **Sony Betamax** case (1984), which held that the use by individuals of the VCR to record a television show for the purpose of viewing it at a later time [time shifting], was a fair and legal use, supports their decision that the Grokster use is a fair use.

Nothing could be further from reality. This case is now on appeal (to the **Supreme Court**). By using the VCR machine, no one could possibly distribute millions of perfectly reproduced copies to all those who wished to have a copy. With the VCR machine, even a second copy turned out to be of measurably inferior quality. The Grokster software is used principally for the illegal duplication and downloading of copyrighted material. Grokster is making millions of dollars in advertising revenue for its system, yet the artists, engineers, composers, etc. are paid nothing.

The original purpose of copyright protection can be found in the U.S. Constitution, which states: "To promote the progress of...useful arts by securing...to authors the *exclusive\_right* to their respective writings..." (emphasis added).

If we take away that protection, we take away all incentive to create and ultimately the public-at-large will be substantially injured, as there will be fewer artists, fewer artists signed, fewer records produced and less musical choices for the public to access. This is the very essence of the appeal of the Grokster decision to the Supreme Court.

This is not a question of overturning the Betamax case. The VCR machine will still be legal. This is a question of balancing the rights of creators with current technology. P2P systems are clearly inducing infringement by the users—those systems need to be held accountable. They can and should incorporate filters to prevent the illegal downloading of copyrighted material and until such time as they do, Grokster and similar, competitive systems should be held liable for the infringement and damage they are doing to the creative community and the public-at-large.