

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Ranking Member, Committee on the Judiciary
Hearing on "Protecting Copyright and Innovation in a Post-Grokster World"
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Peer-to-peer technology has revolutionized the way people share all sorts of information. But as with any technology, it can be abused, and unfortunately, it has been. And as with any technology, those who abuse it effectively prevent that technology from reaching its highest potential. More than two years ago, the Judiciary Committee held its first hearing on peer-to-peer, beginning an important dialogue with many relevant communities about copyright issues in the peer-to-peer context. I have always been a champion of innovation, and have long deplored the fact that a few rogue peer-to-peer companies have hijacked the enormous potential of this technology.

I have high hopes -- as someone who loves music, as someone who is fascinated by technology, and as someone who represents a state full of other music and technology fans - that the emerging market for legitimate online music sales will prosper. And I hope it will do so quickly. My concern is that, unless the problems of piracy and privacy are addressed, peer-to-peer will never realize its enormous potential to build online communities, to enhance networked learning, and to make unprecedented amounts of material, both educational and entertaining, available world wide. I remain concerned about the privacy and security issues, but since the Supreme Court's decision in the MGM v. Grokster case, the industry players have certainly had an incentive to find ways to provide online music without promoting the theft of music online. Last June, in MGM v. Grokster, the Supreme Court unanimously held that someone who distributes a device, with the purpose of promoting its use for infringing copyrights, will be just as liable for the infringement as the third parties who do the direct infringing. The Court emphasized that Grokster's unlawful purpose was abundantly obvious, and declared that courts considering such cases must look at just such facts in trying to determine the objectives of defendants.

We should all remember that it is people - people using technology - who infringe copyrights. Technology itself is not the problem, and neither is technology alone the solution. Our goal must be the responsible use of technology, and the respectful treatment of intellectual property rights. Our technologies may evolve, but the central principles of respect for rights and promotion of innovation should remain constant. The balance between these is critical to maintaining our nation's status as the world leader in intellectual property. We have all heard a great deal about peer-to-peer networks; now we are hearing more about webcasting and satellite radio. We all

want consumers to enjoy the great diversity of music available, and we must ensure that they do so legally.

I thank the witnesses who are here to herald a new beginning in the world of online music, and I look forward to hearing how they see that world.