

# The Web: 'Wild West' of the Internet

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The Wild West ethos that animated the Internet during its first decade of commercial popularity is being tamed through litigation, experts tell United Press International's The Web.

This week the controversial peer-to-peer file-sharing service Grokster Inc. announced a settlement with the music industry, and its Korean counterpart, Seoul-based Soribada, completely shuttered its service.

"This is a chapter that ends on a high note for the recording industry, the tech community and music fans and consumers everywhere. At the end of the day, this is about our ability to invest in new music," said Mitch Bainwol, chairman and chief executive officer of the Recording Industry Association of America, a trade group based in Washington D.C. "An online marketplace populated by legitimate services allows us to do just that."

According to the sales monitoring service Nielsen SoundScan, an average of 6.6 million songs were purchased online each week as of the spring of this year, but that number had increased to 6.7 million last month. Millions more, however, were downloaded and traded for free over the P2P services during that time.

Grokster had been involved in litigation for years and earned a reputation in the Internet as a rogue's rogue. The record industry blamed the firm -- and others like it, some now using hidden "darknet" technology to avoid detection -- for the decline in music-industry sales, down by more than 30 percent in the last three years.

Even major musicians joined the fight against Grokster, with more than 50 stars and the National Academy of Recording Arts and Sciences hiring the entertainment law firm Proskauer Rose to represent their interests, a spokesman for the law firm told The Web. The "major musicians' trade groups, and the international copyright community" also joined the fray, the spokesman said.

The litigation reached its apex this summer when the Supreme Court ruled against the P2P service in the case of MGM vs. Grokster. Other cases filed in Australia and Taiwan also went against file sharing. On Monday Grokster said it would pay a close-to \$40 million settlement with the nation's record labels, Hollywood studios and music publishers. A consent agreement was submitted to the court on Monday for its approval.

"This settlement brings to a close an incredibly significant chapter in the story of digital music," said Bainwol.

The settlement includes a permanent order prohibiting infringement -- either directly or indirectly -- of any of the plaintiffs' copyrighted recordings. This includes immediately ceasing distribution of the Grokster software client application and eventually ceasing to operate the Grokster system and software. This summer, in its unanimous decision in the Grokster case, the Supreme Court noted that in regard to the defendants' actions, "the unlawful objective is unmistakable."

According to David Israelite, chairman and chief executive officer of the National Music Publishers Association, the market for legal downloading of music, using P2P and other technologies, is slowly emerging.

Since the Supreme Court's ruling in June, the legitimate online marketplace has already begun to expand. In addition to legal download

and subscription services like Rhapsody, Napster, iTunes, Wal-Mart.com, Sony Connect, Yahoo! Music and others, a nascent legal P2P network marketplace is emerging. Joining firms like Wurld Media, PassAlong and Intent Media in the legal P2P space, iMesh recently announced a legal P2P business model and the launch of a newly configured service.

Some record companies have also announced licensing agreements in recent months with companies like Snocap and Mashboxx. "Now that a legal online entertainment environment has been established, the ultimate winners in the Grokster case are the music fans, who now have more options than ever before to hear the music they love," said Israelite.

Some music fans had reacted harshly to the crackdown on the P2P technology, claiming that they had a right to use the music, irrespective of national or international copyright laws. Some claimed that the music industry should stop hassling consumers -- college kids in dorms, high schoolers on their home PCs -- and focus on creating a product that people actually wanted to pay for, rather than sample online.

This attitude, spread over the Internet, was prevalent in the United States and in Asia as well, and was promoted by a civil-rights activist group in Korea called Civil Action.

The Korean firm, Soribada, received a lot of positive press in Asia for fighting against the international music industry. But this summer it too lost a court case filed by the U.S. recording industry and this week finally announced that it would shut down rather than pay a \$10,000-a-day fine to stay open. The P2P service reportedly helped distribute 810,000 sound recordings, mostly for free and without a license from the record companies.

The owners of the Korean firm are not being held personally liable for the illegal activities of their users. But outside experts such as John Kennedy, the chairman and chief executive officer of IFPI, an international trade association that represents recording artists, said in a statement that the entire P2P business was built on copyright infringement.

Other leading music-industry experts readily agreed.

"The owners and operators of Grokster -- like numerous other online services all across the globe -- heard nine U.S. Supreme Court justices speak in a unanimous voice -- a voice that was heard loud and clear," Bainwol concluded. "As the Court articulated in no uncertain terms, there is a right way and a wrong way to conduct a business. This settlement makes clear that businesses are well aware when they are operating on the wrong side of that line. Record companies have demonstrated a strong desire to work with a variety of legitimate online enterprises that respect the rights of creators and provide high-quality music to fans. The technology is available, and others are already paving the way."

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