



Are Libraries Liable for File-Sharing?



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Presentation Outline

- Where are we?
- Why are we here?
- What can we do to avoid lawsuits?
- What can we do about the future?

Where are we?

- RIAA v. People
 - 6000+ lawsuits against individual uploaders
 - KaZaA and eDonkey most popular
 - MPAA joining the fray
- Group Survey
 - Have people received C&D? Subpoenas? Notice of Lawsuits?
 - What services do people offer? Wifi? Auth?

Why are we here?

- Fonovisa v. Cherry Auctions (1996)
- A&M Records v. Napster (2001)
- In re: Aimster (2003)
- MGM v. Grokster (2004)
- RIAA v. Verizon (2003)
- S. 2560 (The INDUCE Act of 2004)

Fonovisa v. Cherry Auctions

- Flea Market
- Security Services
- Financial Benefit
- Ability to Supervise and Control

A&M Records v. Napster

- Centralized indexing
- Financial Benefit
- Ability to Police and Filter

In re: Aimster (7th Cir.)

- Centralized indexing
- Encrypted traffic
- Advertising and instructions
- Financial Benefit
- Ability to police
- No proof of substantial non-infringing uses

MGM v. Grokster (9th Cir.)

- No centralized index
- No ability to supervise, filter or police
- No actual knowledge at time of contribution
- Numerous examples of non-infringing uses
- Cert status.

RIAA v. Verizon

- DMCA safe harbors (17 USC 512)
- 512(a) “conduits” have no duty to police, respond to subpoenas or liability if:
 - Have DMCA policy and agent
 - Have policy of terminating repeat infringers

S. 2560 (The INDUCE Act)

- Meant to overturn MGM v. Grokster
- Imposes liability for anyone who facilitates or induces infringement
- Unclear definitions
 - One draft suggested those who don't police are inducing
 - Pressures access providers to snoop on clients

Implications for Libraries

- The more you “supervise” or “police” the more liable you may be
- No financial benefit = no liability
- Lack of knowledge = no liability
- INDUCE Act is a significant threat

Q & A

Acknowledgments
