

**STATEMENT OF GREG KERBER**

**CHAIRMAN AND CEO**

**WORLD MEDIA, INC.**

**COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION**

**UNITED STATES SENATE**

*MGM v. Grokster*

**July 28, 2005**

On behalf of World Media, Inc., I thank Chairman Stevens and Co-Chairman Inouye -- and every member of the Committee on Commerce, Science and Transportation -- for conducting this hearing on the effects of the United States Supreme Court decision in *MGM v. Grokster* as delivered by Justice Souter on June 27, 2005.

I am Greg Kerber, Chairman and CEO of World Media, an advanced technology company located in Saratoga Springs, New York. World began in 1999 as a small technology company, capitalized by family and friends, who believe in the future of this industry. World Media has developed a platform for the secure sale and scalable distribution of copyright-protected digital media. The company's platform, Peer Impact™, features an architecture that enables music copyright holders, computer gaming companies, audio book publishers and other digital media owners to securely propagate their content across the Peer Impact network for legitimate sale to, and download from, any Peer Impact connected computer. This advancement in peer-to-peer technology creates endless capabilities to provide every kind of digital media to consumers, in a safe environment, free from: viruses, unauthorized content, child pornography, spyware, and identity gatherers, while at the same time providing the

ability to have parental controls and ensuring that all rightsholders in the value chain receive payment for their creative works. This is just the tip of the iceberg as far as we are concerned. These advanced technologies are now beginning to enable the virtualization of the supply chain through new and emerging businesses.

This hearing is important because it is exploring the effects of the decision in the *Grokster* case. Without going into any kind of legal analysis of the case, as I am not a lawyer, I can say that as a businessman, running a legitimate peer-to-peer business, this decision clearly illustrates that our system of government is working to achieve the correct balance between protecting the creators of intellectual property and that of advanced technology. Prior to this decision, the primary motivating elements in any evolution of peer-to-peer technology was the avoidance of culpability, not for the sake of innovation or enhancing consumer experience. It was acceptable and lawful to allow illegal activity to exist and to thrive within a network if the system was simply designed to appear to be uncontrollable. One of the many negative outcomes of this lawlessness is the rampant child pornography that proliferates on the illegal peer-to-peer networks. The United States General Accounting Office, in conjunction with, among others, the Customs CyberSmuggling Center, conducted a detailed study of peer-to-peer networks and discovered that when using innocuous searches, with search terms routinely used by children, 56% of the results returned were pornographic in nature.<sup>1</sup> This decision now forces these bad actors to be accountable. They can no longer ignore laws that have been put into place to protect the economy, the development of intellectual property, and, most importantly, our children. This decision allows companies like ours to be able to grow

---

<sup>1</sup> “File-Sharing Programs, Peer-to-Peer Networks Provide Ready Access to Child Pornography,” United States General Accounting Office, February 2003.

and prosper and compete fairly in the marketplace based upon meeting consumer needs, providing a safe environment and not having to compete with business models that are based upon stealing content.

The benefits from this decision include that we will be able to provide employment opportunities for the citizens of upstate New York and beyond as we rapidly expand our staffing to keep up with new content partners and to continue the evolution of our network. Innovation is not gone, but rather, just beginning. In addition to providing jobs for U.S. citizens, we will be able to contribute to this nation's gross national product, pay taxes, and as we launch our services in other areas of the globe, contribute to the reversal of the balance of payments.

The benefits from this decision include that the consumer wins as we will be able to provide a product to consumers that creates convenience, choice and family safety. Our peer-to-peer partnerships include not only the copyright holder and the creator of original works, but the consumer as well, who can now be involved in the economics of distribution. The consumer will find a limitless choice in a world connected by a network that contains all the content they want but not having to be concerned that their personal information is at risk, that their children are going to be viewing inappropriate material or that they are downloading viruses or Trojan horses that will, at some time in the future, take over their operating system, or that they are doing something online that they would never dream of doing in a store; stealing works that others have created without paying for them.

The benefits from this decision include that venture capital can once again feel safe in investing in advanced technologies, in legitimate peer-to-peer services, without the fear of impending litigation. Anecdotally, I should note that the interest in our company from the venture capital community immediately following the decision has been overwhelming. This decision finally provides a firm basis upon which the pirates and bad actors can be distinguished from legitimate businesses, permitting capital to flow once again into those advanced technology companies that we can be proud of on the world stage; businesses that will provide employment of U.S. citizens instead of those businesses hiding themselves in the dark corners of other countries to avoid the laws of the U.S.; companies that will now be able to convert this nascent industry into one that this country can be proud of and that can exist without relying on illegal and immoral activities.

The benefits from this decision include that a legitimate industry can solidly emerge and prosper. That industry is an advanced technology industry that respects the intellectual property of content creators by properly remunerating those who make contributions throughout the value chain, is unlimited and global in nature, and now provides a level playing field upon which innovation can flourish and businesses can compete fairly.

Let me summarize by saying that this decision will positively affect the future development of advanced technology for media distribution and the associated hardware and software industries. This decision puts to rest questions that had served to hold many consumer-friendly new advances in stasis. Venture capital can now invest in legitimate

businesses, knowing with certainty that they will be able to compete fairly and on the quality of their offerings. We look forward to continuing to provide a safe place for intellectual property so that the creation of original works can be inspired and retain its valued place in our society.