



# A&M Records v. Napster, Inc.

239 F.3d 1004 (9th Cir. 2001)

## Case Brief Summary

### Facts:

Defendant, Napster, facilitated through a peer-to-peer file sharing process the transmission and storage of audio recordings on the internet.

Plaintiffs, corporations engaged in the commercial recording, distribution and sale of copyrighted music and sound recordings, brought a copyright infringement action alleging that defendant was a contributory and vicarious copyright infringer.

The district court held that district plaintiffs have presented a prima facie case of direct infringement by defendant's users, hence, they granted plaintiffs a preliminary injunction.

The appellate court entered a temporary stay pending resolution of defendant's appeal.

Defendant's appeal did not contest the district court's finding that defendant's users were engaged in wholesale reproduction and distribution of copyrighted works, but raised the issue of fair use.

The appellate court found no error in the district court's conclusions that plaintiffs would likely succeed in establishing: that defendant's users did not have a fair use defense; defendant's liability as a contributory infringer; and defendant's liability for vicarious copyright infringement.

### Issue:

Did the district court err in granting the plaintiffs a preliminary injunction?

### Answer:

No.

### Rule:

Plaintiffs must satisfy two requirements to present a prima facie case of direct infringement:

- (1) they must show ownership of the allegedly infringed material; and
- (2) they must demonstrate that the alleged infringers violate at least one exclusive right granted to copyright holders under 17 U.S.C.S. § 106.

### Conclusion:

The Court directed that the district court's preliminary injunction remain stayed.

It further held, however, that the district court erred as to the boundaries of defendant's reserved right to police access to its system.

More specifically, defendant's reserved "right and ability" to police is cabined by the system's current architecture.

The Court continued that according to the records presented, the defendant's system does not "read" the content of indexed files, other than to check that they are in the proper MP3 format.

As such, the Court stated that contributory liability may potentially be imposed only to the extent that the defendant:

- (1) receives reasonable knowledge of specific infringing files with copyrighted musical compositions and sound recordings;
- (2) knows or should know that such files are available on the defendant's system; and
- (3) fails to act to prevent viral distribution of the works.

With this decision, the Court shifted the burden to plaintiffs to notify defendant of copyrighted works available on defendant's system prior to defendant having a duty to disable access to the offending material by computer users.