

## YouTube V. Viacom: The Rest of the Story

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Some [commentators](#) have heralded the recent [decision](#) in *Viacom International, Inc. v. YouTube, Inc.* as providing adequate protection for intellectual property. But there's more to the story than many observers may realize.

As everyone knows, copyright laws exist to protect owners of the copyrighted work from having their music or films downloaded without paying their rightful owner a royalty fee. But with the exploding growth of the Internet and related technological advances, new methods have been developed to make copyright piracy easier.

Unfortunately, the U.S. District Court for the Southern District of New York on Wednesday effectively granted blanket immunity to website operators who tolerate and profit from copyright infringement. The case centered on whether YouTube qualified for a safe harbor created by the Digital Millennium Copyright Act of 1998. If the enterprise falls within the DMCA's safe harbor protection, the district court effectively ensures that YouTube is completely immune from monetary damages resulting from its facilitation of copyright infringement.

Astonishingly, the district judge held that the DMCA shielded YouTube from liability, even while conceding that a jury could very well find that YouTube and Google knew about and tolerated copyright infringement (and that they generated profit from the infringement).

But the DMCA was never intended to allow service providers to exploit the statute's safe harbors by designing an entire business model based on improperly profiting from copyrighted content. Indeed, as we at the Washington Legal Foundation argued in our [amicus brief](#), because YouTube's operations are very different from the kinds of passive, innocent service provider conduct that was before Congress when it enacted the DMCA, the court should have carefully considered the intent and purpose of Congress in passing the statute.

In other words, Congress enacted the DMCA to protect the intellectual property rights of copyright owners and to limit the liability of certain innocent service providers, not to immunize a service provider's liability for facilitating and tolerating copyright infringement.

This important decision will have nationwide implications for copyright holders, recording artists, and content producers everywhere. Viacom has indicated that it will immediately appeal the district court's ruling to the U.S. Court of Appeals for the Second Circuit. Let's hope that court takes a much closer look at all the issues at stake.

Cross-posted at [The Legal Pulse](#).

**Tags:** [Digital Millennium Copyright Act of 1998](#), [Inc., Inc. v. YouTube](#), [Viacom](#), [Viacom International](#), [YouTube](#)