

**CS 306 Times**  
***Op-Ed: A Tragic Day for Technology***  
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**T**o my new readers, welcome. And to my returning readers, welcome back! In today's Op-Ed we will be looking at a recently concluded Court of Appeals case with major implications for the at-home video industry, the entertainment industry, the technology industry, and most importantly, **YOU**. But before we dive into the latest ruling, let's look at what led us here.

Some of you may remember that three years ago, in October of 1979, Universal City Studios and Walt Disney Productions sued Sony Corporation and others over the production and sale of Betamax Video Tape Recorders (VTRs). Universal City Studios argued that the home recording of TV shows and movies with a Betamax VTR was copyright infringement. Furthermore, they argued that by producing and selling Betamax VTRs, Sony Corporation should be liable for any perceived copyright infringement committed with a Betamax VTR. Luckily for the American people, a multitude of individuals came forward to testify on behalf of Sony, including non-other than Fred Rogers himself. Rogers testified to the District Court that the home recording of his TV show (Mister Rogers Neighborhood) was not only acceptable, but that he appreciated the freedom that home recording of TV shows provided to parents. Ultimately, the District Court for the Central District of California ruled in favor of Sony Corporation. However, Universal City Studios and Walt Disney Productions did not back down and promptly appealed the case.

Jumping forward to the present day, the Court of Appeals case started by Universal City Studios two years ago has recently concluded. In an unfortunate turn of events, the United States Court of Appeals for the Ninth Circuit has ruled in favor of Universal City Studios against Sony Corporation. The Court of Appeals has found the Sony Corporation liable for contributory copyright infringement and has ordered them to pay damages to Universal City Studios.

Now that the case has concluded, and the dust is settling, let's start with the most obvious question – was the Court of Appeals decision correct? My answer is a resounding and committed no. I will repeat what I said three years ago when this case first started: The recording of free and publicly accessible television and movies for at home use should not be copyright infringement. While discussing his thoughts on the Betamax VTR with regards to at home recording and "time-shifting", Mr. Rogers wisely stated that "anything that allows a person to be more active in the control of his or her life, in a healthy way, is important" (Maddox et al.). By allowing people to tape a program to watch at a later date, the Betamax VTR allows for people to have a greater level of positive control in their lives and reduces their dependence on massive corporations such as Universal City Studios and Walt Disney Productions.

Beyond the Court of Appeals decision being wrong, it is also wholly unethical. While there are numerous ethical theories that could be applied to this Court of Appeals

ruling, Rule Deontology presents as the strongest. Under Rule Deontology, an act is ethically permissible if “all individuals will be treated as ends-in-themselves and never merely as a means to an end” (Tavani). By ruling in favor of Universal City Studios, the Court of Appeals is allowing Universal City Studios to use Sony Corporation as a means to an end. By preventing the home recording of TV shows and movies for future use, Universal City Studios is tightening its control over the average TV watching individual. Instead of being able to “time-shift” a program for later viewing, people will once again have to base their daily schedules around a TV program if they want to watch it – placing the control back in the hands of corporations such as Universal City Studios and Walt Disney Corporation.

By now, I hope I have shown you, my most valuable reader, that the Court of Appeals ruling in favor of Universal City Studios was both wrong and unethical. But, alas, the decision has been made, and barring a successful appeal to the Supreme Court (which one can only hope is in the works), we must ask ourselves how this ruling will affect not only the average American consumer, but also the entertainment industry, the technology industry, and the private home movie industry.

Imagine a future where in order to view the TV shows that they like, people must base their daily schedules around the timetables of multinational entertainment companies. A future where technology companies refuse to innovate because any invention that is perceived as a threat by a major entertainment company will result in a lawsuit (with the odds stacked against the inventor). A future where technology

companies are held liable for the misuse of their products by consumers. A future where entertainment companies can charge whatever they want for a movie ticket (or movie rental) and consumers are unable to legally record publicly broadcasted media for viewing at a later time.

That “imagined future” you just read about – that could easily happen tomorrow. In fact, some of what is described in that future is already happening today. The decision of the Court of Appeals to rule in favor of copyright owners such as Universal City Studios places more power and control in the hands of the entertainment industry and strips power away from the American people. Furthermore, by ruling against an emerging technology (the Betamax VTR) and in favor of a large corporation, the Court of Appeals has set a dangerous precedent where new technology is prosecuted by older and more established companies with something to lose from new technology. This frees the way for corporations such as Walt Disney Productions or Universal City Studios to reduce the amount of content they publicly broadcast and switch to paid distribution channels.

One can hope that the Supreme Court agrees to hear an appeal by Sony (should they choose to make one) and reverses the Court of Appeals fateful decision. But until if and when that happens, the ruling of the Court of Appeals stands, and that means dark times are ahead for those who prioritize new technology, individual freedoms, and progress... Let us dream of brighter days ahead.