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Supreme Court OKs Cablevision's "Remote" DVR

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Cablevision can move forward with its plans to move its digital video recording service into the cloud, thanks to the Supreme Court's refusal to hear the broadcast industry's appeal of a decision granting summary judgment in favor of Cablevision. While consumer DVRs have been used for years, Cablevision sought to launch a service for the remote storage of shows recorded by consumers. Cablevision's argument in favor of such service was that, as long as consumers were still in control of the recording, playback and deletion process, the location of the hard drive on which the content was stored didn't matter. Broadcasters disagreed, however, claiming that by archiving and retransmitting the content, Cablevision was engaging in copyright infringement. A district judge initially agreed with the broadcasters and, in March 2007, entered an injunction preventing Cablevision from rolling out its program. Cablevision appealed and in August 2008, the Second Circuit reversed the district court ruling in a sweeping opinion. The circuit court found that, while Cablevision employed a 1.2 second storage buffer, that "embodiment" of the work was only transitory and failed to constitute copyright infringement. The circuit court also found that Cablevision did not own the copies on its servers, which were controlled by the users and therefore fell within the scope of the fair use doctrine. The Supreme Court's denial of cert brings to an end the litigation. Cablevision announced that it plans on beginning a roll-out by the end of the summer.

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