[NL] Supreme Court Decides on Peer-to-Peer File-Sharing Issue

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On 19 December 2003, the Dutch Supreme Court decided on the appeal lodged against the decision of the Amsterdam Court of Appeal of 28 March 2002 in the case of Kazaa v. Buma/Stemra (see IRIS 2002-1:13 and IRIS 2002-5:12). Kazaa is the producer of one of the most popular file-sharing programs, used for the transfer of (often infringing) material via the Internet. The Amsterdam Court of Appeal had ruled that Kazaa could not be held liable for the offering of its file-sharing program, and this decision has not been overturned by the Supreme Court.

However, since the Dutch Supreme Court does not perform a full review, it did not decide on the merits of the case, opining on relatively minor points of the appealed judgment. Buma/Stemra's complaint focused on whether the lower courts should have ordered Kazaa to prevent the exchange of infringing files in future versions of its program. According to the Supreme Court, the Court of Appeal did not err by not ordering this.

As these decisions all form part of the preliminary proceedings, Buma/Stemra can still initiate full-scale proceedings against Kazaa.

Judgment of the Dutch Supreme Court of 19 December 2003, LJN-no. AN7253, 19 December 2003

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