# [FR] Video Pirate Acquitted

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On 13 October 2004 the Regional Court in Rodez delivered a decision that has attracted a lot of attention in the present climate of intense consideration of peer-to-peer technology. To date, there have been very few cases on the downloading and exchange of works that are protected by copyright and neighbouring rights that would provide precedent, which means that the matter is not clearly settled. On 29 April, the Regional Court in Vannes imposed a suspended sentence of three months imprisonment and a fine in respect of six Internet users who had downloaded films, music, games and software and then copied them onto CDs and DVDs which they subsequently exchanged. They were found guilty of infringement of copyright under Article L. 122-4 of the Intellectual Property Code (CPI), as they had no authorisation from the originators or their beneficiaries to download and circulate the works in question.

In the case brought before the criminal section of the Regional Court in Rodez, a private individual was accused of having "edited a production, more specifically by reproducing 488 CD-ROMs, printed or recorded in full or in part in disregard of the rights of their originators". These were films and cartoons that the accused had in part downloaded from the Internet using his computer, or copied onto CD-ROMs for his personal use, in some cases lending them to other people but never selling or exchanging them. The Court found that the fact that only a single copy of each of the films in question had been discovered confirmed these declarations, and decided that no attempt had been made to sell or exchange the CD-ROMs. Recalling the exception of private copying allowed by Article L. 122-5 of the CPI, under which an originator may not prohibit "copies or reproductions strictly reserved for the use of the person making the copy", and the levy on blank recording media and reproduction equipment (Article L. 311-1 of the CPI), the Court acquitted the accused, on the grounds that there was "no proof of any use of the copies he had made other than strictly private use as provided for in Article L. 122-5 of the CPI.

The question of whether the actual process of downloading and the reproduction of works on external media (CD or DVD) without authorisation may benefit from the exception of private copying, as formulated in the analog era, is the subject of fierce debate. The judgment of the Regional Court in Vannes makes no comment on the matter; the terse judgment of the Court in Rodez seems to take no account of the origin of the works, viz. that they were downloaded unlawfully on peer-to-peer networks. This is at any rate the opinion of the lawyers acting for the parties

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claiming damages (producers, distributors and video editors) who, following the advice of the Public Prosecutor, have decided to appeal against the judgment.

### *TGI de Rodez, 13 octobre 2004, Fédération nationale des distributeurs de films et autres c/ A. Delicourt*

*Regional Court in Rodez, 13 October 2004, French national federation of film distributors et al v A. Delicourt*

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