[IT] Supreme Court Ruling on P2P

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On 22 January 2007, the Italian *Corte Suprema di Cassazione* (Supreme Court) ruled in favour of file sharing activities where no lucrative intent is involved. The decision caused an initial commotion among Italian users because it was first interpreted as being a revolutionary change of stance. It nevertheless quickly became evident that the Supreme Court's decision did not actually present any change of stance, rather it derived from the Court's consideration of the law in force at the time when the events relating to the case occurred. The case concerned the creation, in 1999, on a university (the Turin Polytechnic) computer of an FTP server by two young men. It was through this server that they shared files with other students free of charge. The Supreme Court analysed the actions of the two students in light of the law in force in 1999 and, after finding that the file sharing was clearly not aimed at obtaining any financial profit, it concluded that no illegal act had been committed by the two young men. Italian law has, since 1999, been subject to various modifications, the most recent of which are contained in the *Decreto Urbani* (Law Decree 128/2004) and in Law 43/2005, both of which clearly indicate that file sharing of copyright-protected works is illegal. If the events in the case at hand had taken place under the current law, the decision of the Supreme Court would have been completely different.

Corte di Cassazione, Sezione III Penale, Sentenza 22 novembre 2006 (dep. 9 gennaio 2007), n. 149

http://www.penale.it/page.asp?mode=1&IDPag=403

Decision of the Supreme Court of 22 January 2007

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