[IT] IP Address Is Not Proof in Itself of the Author of Illegal File Sharing

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On 3 April 2009, the Judge for Preliminary Investigation of the Court of Rome upheld the motion by the public prosecutor to drop charges of illegal file sharing on a peer-to-peer website against the owner of the IP address used to commit the alleged crime.

Both the public prosecutor and the Court clarified in their statements of reasons that there is no proof that the person who has entered into a contract with an ISP for the provision of access to the Internet is the one who engaged in illegal file sharing using that IP address. As the prosecutor duly noted in his motion, indeed it cannot be ruled out that the acts of copyright infringement were perpetrated by another user, possibly one accessing the Internet connection concerned on an occasional basis.

The ruling of the Court of Rome is of key significance at the national and possibly at the EU level in the light of the recent controversy over the so-called Peppermint case (see IRIS 2008-7: 17), where a record label used proprietary software to log the IP addresses among which its copyrighted works were shared over P2P networks and subsequently requested that the owners of those addresses pay a given amount of money or face criminal proceedings.

Procura della Repubblica presso il Tribunale di Roma, Richiesta di archiviazione, 3-12-2008

Public Prosecutor for the Court of Rome, Motion for Dismissal of Charges, 3 December 2008

Giudice per le Indagini Preliminari presso il Tribunale di Roma, Decreto di Archiviazione, 3-4-2009

Judge for preliminary investigations for the Court of Rome, Order for dismissal, 3 April 2009

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