The Battle for Internet Freedom: (6)
Italy

by M. E. Kabay, PhD, CISSP-ISSMP
Associate Professor of Information Assurance
School of Business & Management
Norwich University, Northfield VT

This is the sixth in a series of articles presenting the legal foundations of Internet expression.


The boy’s father and an advocacy group called Vivi Down that works to protect people with Down’s Syndrome<http://www.ndss.org/> (even though the child doesn’t suffer from that affliction) launched a lawsuit against Google for defamation and for violating the privacy of the victim.<http://www.reuters.com/article/idUSLDE61N0Q120100224>

On February 24, 2010, Judge Oscar Magi of Milan ruled that three randomly-chosen Google executives were innocent of defamation but guilty of the violation of privacy charges; he sentenced them to six months in prison (suspended).

The condemned executives, their colleagues and the Internet in general exploded in outrage.

The BBC quoted one of the defendants, Chief Legal Officer David Drummond, saying, “I intend to vigorously appeal this dangerous ruling. It sets a chilling precedent…. If individuals like myself and my Google colleagues who had nothing to do with the harassing incident, its filming or its uploading onto Google Video can be held criminally liable solely by virtue of our position at Google, every employee of any internet hosting service faces similar liability.”<http://news.bbc.co.uk/2/hi/technology/8533695.stm>

Paul McNamara of Network World, himself the father of an autistic child, expressed outrage over the bullying – and outrage over what he described as an insane ruling: “Google was not any more responsible here than the postal service would be for delivering a ransom note. Madness. There’s no other way to explain this verdict.”<http://www.networkworld.com/news/2010/022410-buzzblog-google-execs-convicted.html>

Analysts also imputed other motives to the judge’s ruling; Rachel Donadio’s article<http://www.nytimes.com/2010/02/25/technology/companies/25google.html> includes this interesting analysis:

In Italy, where Prime Minister Silvio Berlusconi owns most private media and indirectly controls public media, there is a strong push to regulate the Internet more assertively than it is controlled elsewhere in Europe. Several measures are pending in Parliament here that seek to impose various controls on the Internet. Critics of Mr. Berlusconi say the measures go beyond routine copyright questions and are a way to stave off competition
from the Web to public television stations and his own private channels — and to keep a tighter grip on public debate. “It’s a deliberate effort to control the means of communication,” said Juan Carlos de Martin, the founder of the Nexa Center at Turin’s Polytechnic University, which studies Internet use in Italy.

An interesting wrinkle in the case is the reasoning offered by the Italian prosecuting attorneys: “…because Google handles user data – and uses content to generate advertising revenue – it is a content provider, not a service provider, and therefore broke Italian privacy law. The law prohibits the use of someone's personal data with the intent of harming him or of making a profit.”<http://www.sltrib.com/business/ci_14471210>

Google is planning to appeal the conviction of its executives and cited European Union law which gives “hosting providers freedom from liability as long as they remove illegal content once notified of its existence.”<http://www.networkworld.com/news/2010/022410-google-italy-convictions.html>

I hope that Judge Magi’s ruling will be overturned.

In the next and last article in this series, I’ll review some good work being done in Iceland and elsewhere to fight for Internet freedom.

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