

Kournikova virus creator gets a light sentence

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On 27 September 2001 the District Court of Leeuwarden gave a decision against the developer of a computer virus – the first decision of its kind in the Netherlands. The virus was the well-known ‘Anna Kournikova- virus.

In February 2001 many people worldwide received an e-mail with an attachment of a picture of the famous tennis player Anna Kournikova. On double-clicking the attachment, a virus was activated. The virus was then sent automatically to all e-mail addresses in the user’s mailbox. It spread quickly, crashing computer networks all over the world (although there was not much actual damage – the FBI reported non-specified damage of about \$ 170,000 spread between 55 companies).

‘On the Fly’, the developer’s nickname, was a 20-year-old student from Sneek. He was shocked by the commotion he had caused and gave himself up to the police.

The Dutch prosecution department decided to prosecute. According to Article 350a of the Netherlands Penal Code, three questions must be asked of the perpetrator to establish guilt:

- Did he cause the spread of the data?
- Was the data intended to cause damage by multiplying?
- Did he act intentionally?

The court held that the defendant had undoubtedly caused the spread of the data. Moving on to consider the other two questions, the court found that the virus was not able to directly cause damage, but by multiplying exponentially, it could still cause damage on a global scale.

The court considered the acts of On the Fly as intentional, because he accepted the risk of causing damage and had full knowledge of what could happen by spreading an e-mail virus. The fact that he disabled certain disastrous functions of the virus, and that he chose a sexy celebrity to lure the public, also contributed to a finding of intention.

He was sentenced to 150 hours of community work. The court’s main reason for this non-suspended sentence was the general prevention of the spread of potentially economically-crippling computer viruses.
