Case In Point

Supreme Court of Canada Finds Individuals Have a Privacy Interest in Their IP Addresses

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In *R. v. Bykovets*, released on March 1, 2024, the majority of the Supreme Court of Canada (Court) found that individuals have a privacy interest in their internet protocol (IP) addresses.

The issue arose in the context of the Court's consideration as to whether police had breached section 8 of the *Canadian Charter of Rights and Freedoms* (*Charter*) prohibiting unreasonable search and seizures. The police had requested a listing of IP addresses without a warrant from a third party in the course of a fraud investigation. The majority of the Court noted that IP addresses, which attach to every device connecting to the internet, can reveal personal information. This includes the identity of the device's user and a history of their online activity even in the absence of a warrant to obtain other personal information about the user from the internet service provider who assigned the IP address.

The majority found that the police collection of the IP addresses breached section 8 of the *Charter*.

The decision will be of particular interest to employers who are subject to the *Charter* and who may be confronted with employment-related investigations involving online activity which calls for the collection of IP addresses to permit identification.

While it is important to note that the majority's finding does not automatically prohibit the collection of IP addresses in all circumstances, employers will need to be mindful of the privacy interest in determining whether their collection in a particular context is compliant with *Charter* requirements.