

European court: Google must yield on personal info (Update 4)

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In this Oct. 17, 2012, file photo, a man raises his hand during at Google offices in New York. People should have some say over the results that pop up when they conduct a search of their own name online, Europe's highest court said Tuesday, May 13, 2014. (AP Photo/Mark Lennihan, File)

Europe's highest court Tuesday gave people the means to scrub their reputations online, issuing a landmark ruling that experts say could force Google and other search engines to delete references to old debts, long-ago arrests and other unflattering episodes.

Embracing what has come to be called "the right to be forgotten," the Court of Justice of the European Union said people should have some say over what information comes up when someone Googles them.

The decision was celebrated by some as a victory for privacy rights in an age when just about everything—good or bad—leaves a permanent electronic trace. Others warned it could interfere with the celebrated free flow of information online and lead to censorship.

The ruling stemmed from a case out of Spain involving Google, but it applies to the entire 28-nation bloc of over 500 million people and all search engines in Europe, including Yahoo and Microsoft's Bing.

It has no immediate effect on the way Google and other search engines display their results in the U.S. or other countries outside Europe.

In its ruling, which cannot be appealed, the EU court said search engines must listen and sometimes comply when people ask for the removal of links to newspaper articles or other sites containing outdated or otherwise objectionable information about themselves. The court provided little guidance on exactly how to make such judgments.

Google Inc. has long maintained that people with such complaints should take it up with the websites that posted the material.

But persuading websites to drop material can be difficult and time-consuming. The EU ruling would presumably make it easier by putting the burden on search engines.

"This is a disappointing ruling for search engines and online publishers in general," the Mountain View, California, company said in a statement.

Though Europe is one of Google's biggest markets, the decision isn't

expected to have much effect on the company's earnings. That's because it has no direct bearing on the online ads that Google places alongside its search results.

Investors evidently weren't worried. Google's most widely traded class of stock gained \$3.11 to close at \$541.54 Tuesday.

It's unclear exactly how the European court envisions Google and others handling complaints.

Google, though, has dealt with similar situations in the past.

The company already censors some of its search results in several countries to comply with local laws. For instance, Google and other search engines are banned from displaying links to Nazi paraphernalia and certain hate speech in Germany and France.

The company has also set up a process so people can have their images blurred if they appear in Google's street-level photographic maps.

But Google and other such companies rely heavily on formulas, or algorithms, and automated "crawlers" that roam the Internet and gather up results in response to search requests.

What they have sought to avoid is acting as the arbiters of what kind of information to include in their searches.

"There's not much guidance for Google on how to figure out how and when they are supposed to comply with take-down requests—they just know they have to weigh the public interest," said Joel Reidenberg, a Fordham University law professor now visiting Princeton University.

The case was referred to the European Court from Spain's National

Court, and involved Mario Costeja, a Spaniard who found a search of his name turned up links to a notice that his property was due to be auctioned because of an unpaid welfare debt. The notice had been published in a Spanish newspaper in 1998, and was tracked by Google's robots when the newspaper digitized its archive.

Costeja argued that the debt had long since been settled, and he asked Spain's privacy agency to have the reference removed. In 2010, the agency agreed, but Google refused and took the matter to court, saying it should not be asked to censor material that had been legally published by the newspaper.

"It's a great relief to be shown that you were right when you have fought for your ideas. It's a joy," Costeja said.

He said that "ordinary people will know where they have to go" to complain about bad or old information that turns up on a Google search.

Costeja's case will now return to Spain for final judgment. There are about 200 others in the Spanish court system, some of which may still prove difficult to decide. For instance, one involves a plastic surgeon who wants mentions of a botched operation removed from Google's results.

Debates over the "right to be forgotten" have surfaced across the world as tech users struggle to reconcile the forgive-and-forget nature of human relations with the unforgiving permanence of the Internet.

Though the idea of such a right has generally been well-received in Europe, many in the U.S. have criticized it as a disguised form of censorship that could, for example, allow ex-convicts to delete references to their crimes or politicians to airbrush their records.

Lee Rowland, an American Civil Liberties Union attorney specializing in privacy and technology issues, said a similar ruling in the U.S. is highly unlikely "because the First Amendment provides robust protections for the printing and reporting of publicly available information."

"What instead it will do is fracture these global Internet companies into having different rules and modes of governance for different countries," Rowland said.

Alejandro Tourino, a Spanish lawyer who specializes in mass media issues, said the ruling was a first of its kind and "quite a blow for Google."

"It is a most important ruling and the first time European authorities have ruled on the 'right to be forgotten,'" said Tourino, who has worked for The Associated Press in several legal cases and is the author of "The Right to be Forgotten and Privacy on the Internet."

Some limited forms of a "right to be forgotten" exist in the U.S. and elsewhere—for example, in regard to crimes committed by minors or bankruptcy regulations, both of which usually require that records be expunged in some way. However, the burden falls on the publisher of the information, usually a government—not on search engines.

Viviane Reding, the EU's top justice official, said in a Facebook posting that the ruling confirmed that "data belongs to the individual" and that unless there is a good reason to retain data, "an individual should be empowered by law to request erasure."

However, Javier Ruiz, policy director at Open Rights Group, a British-based organization, cautioned that authorities have to be careful in how they move forward.

"We need to take into account individuals' right to privacy," he said.
"But if search engines are forced to remove links to legitimate content that is already in the public domain ... it could lead to online censorship."

More information: Online: support.google.com/websearch/troubleshooting/3111061

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