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# What the Right to Be Forgotten Means to Companies: Threat or Opportunity?

Jongwon Lee<sup>a\*</sup>

<sup>a</sup>Graduate School of Management of Technology, Hoseo University, 79 Hoseo-ro, Asan Si, 31499, South Korea

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## Abstract

This study is conducted to review the meaning of the right to be forgotten in a digital age in order to discuss implications on the information technology companies. This paper illustrates the meaning of the right to be forgotten and the controversies surrounding it. And then the opportunities and implications for the company are suggested. I find that in the emergence of regulatory approach to the right to be forgotten, there is certainly a path forward which is achievable in a business sense. The right to be forgotten in the coming era of big data gives new opportunities to information technology companies. The companies need to be prepared to respond to the demand of the market.

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## 1. Introduction

On May 13, 2014, the European Court of Justice declared that a European Union citizen has the fundamental rights to privacy and to the protection of personal data [1]. This so-called right to be forgotten ruling required Google to remove links to the web pages with outdated personal information of a Spanish man. Basically, the right to be forgotten “reflects the claim of an individual to have certain data deleted so that third persons can no longer trace them” on the internet. Following this decision, France further demanded Google to remove search results from its global domain, google.com, not just European domains because removing links just from European domains does not sufficiently protect the right to be forgotten if users go to its global domain.

Similarly, in the U.S., the state of California enacted the right to be forgotten in a different and more limited form in 2013. California’s so-called eraser law, the California Rights for Minors in the Digital World Act, gives

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\* Corresponding Author. Tel.: +82-10-8122-1313; fax: +82-41-560-8308.

*E-mail address:* [jweel@hoseo.edu](mailto:jweel@hoseo.edu)

users under the age of 18 a right to request removal of content from online postings. Only Californian minors can have this right to be forgotten. Korea also introduced a rule called “a temporary measure” under the Act on Promotion of Information and Communications Network Utilization and Information protection in 2008 which allows users to ask for the removal of search results that invade their privacy or defame them. Korea, through the Korea Communications Commission (KCC), has prepared for legislation for the right to be forgotten.

As the right to be forgotten has gained some acceptance across the world, it is an opportune time to analyze the meaning of the right to be forgotten in a digital age and review the controversies concerning this right. Then, the meaning of the right to be forgotten to information technology companies will be discussed particularly in terms of challenges and opportunities.

## **2. The Meaning of the Right to Be Forgotten and the Controversies Surrounding It**

### *2.1. The Meaning of the Right to Be Forgotten*

There is a saying that the Internet never forgets [2]. The right to be forgotten addresses this urgent problem in the digital age that the postings on the Internet stay forever. Most people may have their past they would like the Internet to forget, but it is very hard to escape their past on the Internet. Once posted online, whether deliberately or accidentally, those postings cannot be destroyed once other users copy, download, or repost them even after the original publisher deletes them. The original publisher has no legal right to demand other users to delete the reposted content. Even the most proactive and aggressive European right to be forgotten ruling did not require the original posting to be taken down. The original posting remains accessible through means other than search engines. It just becomes less easily findable.

In the U.S., the California’s eraser law requires companies, operators of an Internet Web site, online service, online application, or mobile application, to provide minors a mechanism to remove or request the removal of content and information, but only if they themselves have posted it. In other words, the content and information posted by a third party are not covered by the law.

As in Europe, the Korean government has been active in implementing the right to be forgotten. KCC, Korea’s state-appointed media monitoring agency, has prepared for legislation for the right to be forgotten but finally decided to set out the guidelines in a self-regulated form instead of enforceable legislation to enable individuals to request for deletion of personal data online. A temporary measure compels operators of an Internet Web site, online service, online application, or mobile application to block access to the information in question that invade privacy or defame users for the first 30 days and then to permanently delete it later. In 2014, Korea’s largest portal sites Naver and Daum removed nearly 95 percent of the requests to delete the posts. Unlike Europe and California, Korea does not differentiate the postings made by the users themselves and a third party.

Although varied in terms of aggressiveness and scope, the right to be forgotten allows, to some degree, an individual to take back control their privacy and personal information, even after divulging them to others. Given the fact that the trail of data people leave online stay permanent and can have lasting impacts, how the right to be forgotten can develop and be used are important, but there are some controversies surrounding this right. First of all, it leads to the question of privacy protection in a digital age. It also raises the question on the balance between the right of privacy and the right to freedom of expression. In addition, it requires the information technology companies to prepare for the compliance with the right and find new opportunities.

### *2.2. Privacy in a Digital Age*

The rapid and significant developments in information and communications technologies (ICT) have enabled more and more people to shed information about themselves with ubiquitous internet connection of smartphones. Social media has become a part of everyday lives of many people in much of the world. The development of ICT

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