

## Publications

### Google, the United States and the EU ‘Right to Be Forgotten’: Strategies for Removing Harmful Google Search Results

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**AUTHORED ARTICLE** | 7.23.2015

In May 2014, the Court of Justice of the European Union ruled that individuals have the right to ask Google to remove certain search results about them. This “Right to Be Forgotten,” as it is popularly known, has led to [nearly 290,000 removal requests](#) and counting, with Google having evaluated well over a million URLs to date.

When Google grants URL removals pursuant to the Right to Be Forgotten, the URLs no longer appear in the Google results for EU countries — google.co.uk and google.fr, for example. Removal requests do not apply to Google.com U.S. search results.

Thus, Americans cannot use the Right to Be Forgotten to have objectionable search results about them — including internet defamation — removed from Google.com. Instead, the process in the United States generally involves obtaining a court order against the posters of the harmful content and submitting the order and URL removal requests to Google online – as discussed [elsewhere on our blog](#).

#### *The U.S. and the Right to Be Forgotten*

The Right to Be Forgotten is governed by EU data protection laws. With a narrow exception, discussed below, it does not apply to Americans (certainly not to the U.S.-based Google.com search results). Given First Amendment protections, the United States is unlikely to ever adopt a rule akin to it.

But that has not stopped Americans – both individuals and groups alike – from pushing for the United States and Google to adopt something similar, and the debate has been widely covered by American media.

Just last week, the Los Angeles Times published an [editorial entitled, “Do Americans deserve a ‘right to be forgotten’ rule from Google?”](#) This comes on the heels of a California-based consumer advocacy group [filing a complaint with the Federal Trade Commission](#) (FTC) on July 7

about this very issue.

In its complaint, Consumer Watchdog argued that Google – by not offering a similar rule to Americans that would allow them to request the removal of “inadequate, irrelevant, no longer relevant, or excessive” links – has violated Section 5 of the FTC Act, which prohibits unfair or deceptive practices.

The parents of a teen killed in a 2006 car crash, the images of which were leaked and still link to the teen’s name in search results, are among those [supporting Consumer Watchdog’s movement](#).

Google is actually willing to entertain [removal requests pertaining to certain types of sensitive personal information](#). But, at least for now, those pushing for a Right to Be Forgotten in the United States are fighting a losing battle.

### *How EU Removal Requests Work*

European citizens – or persons acting on their behalf, such as their attorneys – can submit requests to Google via its web form and ask that Google remove certain objectionable content from search results.

An American with dual citizenship of an EU nation or someone that can make a strong case, such as a U.S. citizen who lives and works in an EU nation, can also have a valid claim for removal of content from EU-related searches.

Google assesses each request on a case-by-case basis and will not only evaluate whether the URLs do contain objectionable content (i.e. inadequate, irrelevant, no longer relevant, or excessive), but Google’s team will also weigh the public’s interest in the search results.

For instance, Google will likely find that it is in the public’s interest to know about someone who has previously engaged in a financial scam, professional malpractice, or criminal activity, and certainly public conduct as a government official.

According to Google data, as of July 23, 2015, 41.2 percent of the URLs submitted to Google under the Right to Be Forgotten have been removed.

### *Making Other International-Based Requests*

When the EU Right to Be Forgotten is ineffective or simply not applicable, there is an alternative route for those who have legally protectable reputations in other countries, whether in Europe or otherwise — though, generally, this is still tied to obtaining a court order.

Even with a court order, there is no way to submit a “global” request such that a Google.com removal request can be applied to all Google search pages. But individuals and companies that have legally protectable reputations in non-U.S. countries – for example, a person or company with an office in another nation or, again, a dual citizen – can submit individual requests for other countries’ search results and attempt to have Google de-index URLs that way.

In short, Americans do not have the luxury of the Right to Be Forgotten and they likely never will. But, by obtaining a court order and submitting valid requests to Google, harmful search results – including instances of internet defamation – can be removed.

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