

**Fonte: Dr. Daniel Pitanga Bastos de Souza**

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# LATIN LAWYER

## Brazilian court strikes down Google deletion request

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The São Paulo State Court has refused to force Google to exclude an individual's name from its search results on the grounds that to do so would be a form of "prior censorship".

The plaintiff, Paul Carrijo, was appealing against a trial court decision to deny his request for Google to delete his name from search results. He argued that he had a well-founded fear of irreparable damage and that the search engine did not have his authorisation to use his name.

The plaintiff argued to the appeal court that Google's use of his name in search results was a violation of the constitutional guarantee to human dignity and privacy, international conventions on human rights, and the country's internet law.

But in a ruling on 8 November, the court said that granting Carrijo interim relief would be an unreasonable restriction on the search engine; it added that there is no legal requirement for Google to seek permission to use an individual's name unless it uses it for commercial advertising purposes, or exposes the individual to public contempt.

The judge added that under the internet law and the General Data Protection Law, due to come into force in February 2020, individuals seeking to have their names removed from internet search results must have a valid reason for doing so. In this instance, the judge found that the plaintiff did not indicate how having his name listed in search results would reveal aspects of his private life, which would be one reason for authorising the delisting.

**Daniel Pitanga, a partner at Siqueira Castro Advogados** in Rio de Janeiro, told *Global Data Review*, Latin Lawyer's sister publication, that the decision is important because it suggests that an individual cannot force search engines to delist results just because they contain personal data.

“It is clear from this judgment that you need a valid ground in order to remove your personal data from search engine results – the Brazilian Data Protection Law will not protect personal data unless it is being used to harm the individual in some way.”

Patricia Marta, a partner at **TozziniFreire Advogados** in São Paulo, noted that this claim is one of the first to address rights enshrined in the incoming Brazilian data protection law. However, she added that since the judiciary is yet to rule on Brazil's leading case on the right to be forgotten, there is a lot of uncertainty as to how courts will rule on the matter.

The leading case on the right to be forgotten in Brazil is currently pending judgment at the country's Supreme Court; it involves the family of a murder victim suing Brazilian broadcaster Globo TV for alleged violation of the right to be forgotten when it aired a documentary about the crime in 2008.

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