

Privacy and Liability Law: The Right to be Forgotten

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The recent decision of the Court of Justice of the European Union in *Google Spain* has triggered a sort of media frenzy, leading to charges that the decision will bring about censorship of free speech. Some of this reaction is perhaps understandable. Our instincts tell us that law and forgetting should not mix. After all, that the law should require us to forget or erase details from public record is the sort of thing we tend to associate with totalitarian regimes. But, as this paper will argue, if we pay close attention to the laws of democratic legal systems committed to the rule of law and the protection of human rights, we find several ways in which the law makes space for forgetting. Consider, for example, our bankruptcy laws, rules on rehabilitation of offenders and those aspects of liability law informed by privacy concerns. When we consider *Google Spain* against this backdrop, the Court's decision is not as radical as it first appears.