Brazil Pending Data Protection Legislation

Renato Leite Monteiro, Senior Attorney at Opice Blum, Bruno, Abrusio and Vainzof Advogados Associados.

In April 2014, Brazil enacted the Civil Rights Framework for the Internet in the country, commonly known as “Marco Civil da Internet”. The law came into effect in June and now with a little more than 6 months, it is still pending regulation that will focus on net neutrality and data retention. Article 15 of the regulation determines that Internet companies should retain connection logs to its services for a period of at least six months. However, the article, similar to the EC Directive 2006 that was considered illegal by the European Court of Justice, does not limit which data should be collected and retained, it only mentions that IP addresses should be retained and provided whenever requested by authorities after judicial review. This article will receive proper regulation via a presidential decree. For that, there is an open consultation until the end of January and anyone can provide their views on how this article, and other sectors of the law, should be regulated.

On top of that, a protection of personal data bill of law has been discussed since 2010 and a new version of the text has just been finalized by the Ministry of Justice. However, it has not been made available to the public so far. The first version was influenced by the EC Directive 46/95 and by the Canadian PIPEDA. Rumor says that the current version received several and important amendments, being highly influenced by the current surveillance state revealed by Edward Snowden. The expectations are high and a new public consultation will take place, open to nationals and foreigners.

It seems that 2015 will be a hot year for data protection issues in Brazil.

Belgian Privacy Commission Approves Johnson Controls

By: Katherine Woodcock

Johnson Controls received authorization for its binding corporate rules (BCRs), marking the first approval where the Belgian Privacy Commission acted as a lead authority. Lorenz Privacy & Data Protection Team assisted with the process and is pleased to announce the finalization of the procedures – and in record time!

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Malaysia Airlines Website Hacked, Data Breach

Summary by: Youyoung Kim (金柔瑛)
Washington University School of Law in St. Louis, J.D. Candidate 2015, Vanderbilt University, Class of 2011

Jan. 26, 2015. The Malaysia Airlines website was hacked and customer data appears to have been leaked online.

In its statement posted to Facebook at 6 a.m. GMT., the Malaysia Airlines confirmed that its “Domain Name System (DNS) has been compromised where users were re-directed to a hacker website when www. Malaysiaairlines.com URL is keyed in.”

Some mobile users attempting to access the Malaysia Airlines saw an “Error 521: Web Server Down” message, which can refer to a connection problem with CloudFlare, which provides a service for defending sites against distributed denial-of-service attacks (DDoS). But CloudFlare’s service relies on DNS settings, indicating that if attackers altered the airline’s DNS settings, then it could have broken the connection with CloudFlare.

The hacking group known as Lizard Squad has claimed credit for the attack, both via the website as well as via its “LizardMafia” Twitter account. Subsequently, Lizard Squad leaked the booking information of Malaysian International and Trade Industry Minister and another passenger.

Lizard Squad’s strategy to hack a website’s DNS settings to redirect it to a site of the attacker’s choosing has been used in the past. European Network and Information Security Agency (ENISA), the European agency that focuses on improving cybersecurity practices for the EU members, released a report that urges DNS registrars to better lock down the account credentials and lists of authorized users to prevent attackers from seizing control of those accounts and altering DNS settings.

In light of two 2014 tragedies of Malaysia Airlines, this hacking incident is being criticized for its insensitivity for the tragedies that happened.

Belgian Privacy Commission
Continued from page 1

A few highlights of the lessons that Lorenz learned along the way:

1. BCRs are not difficult to accomplish for companies with existing privacy programs.

2. In terms of timing, the support of the lead-DPA and the applicants’ ability to respond to the DPA in a timely manner make the process move quickly. The Belgian DPA’s support and an open dialog were critical factors for Johnson Controls’ success.

3. Applying for a BCR or becoming BCR ready is an ideal exercise to promote data privacy understanding within an organization – BCR readiness will also catapult company compliance under the future EU Data Protection Regulation.

You can access the press release at the link below:


**A BIG THANK YOU!!**

**YEAR-IN-REVIEW AUTHORS**

The PEDS Committee leadership would like to thank all of the Year-in-Review (YIR) 2014 authors who helped to produce PED’s fourth consecutive on-time contribution to this special issue.

The YIR is prepared in cooperation with the SMU Dedman School of Law. Late each spring the Section of International Law publishes the YIR based on submissions from all the Section’s committees.

The committee editor was PEDS Co-Chair W. Gregory Voss, Toulouse University, Toulouse Business School.

The authors were:

Europe section: European Union:

• Legislative Action, and Court Decisions and Related Advisory Guidance: W. Gregory Voss;

• EU Article 29 Data Protection Working Party (WP) Guidance: Katherine H. Woodcock, Lorenz International Lawyers, Brussels, Belgium;

Asia-Pacific section:

• APEC Cross-Border Privacy, and Australia: W. Gregory Voss;

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• South Korea: Mr. Jai Lee, Senior Foreign Counsel and U.S. patent attorney specialized in technology laws (including data security, data privacy, licensing, technology transfer, IP and labor laws) at Yulchon, LLC, Mr. Doil Son, Partner and Korean licensed attorney practicing primarily in Mergers & Acquisitions, Technology, Media & Telecommunications (TMT), Cyber Security, and other areas, Yulchon LLC

The committee editor and the China section authors wish to thank Mr. Kyu Hyun Kim, Senior Associate at Yulchon LLC, Mr. Tae Yong Kim, foreign counsel at Yulchon, and Yankun Guo, a third-year student at the John Marshall Law School in Chicago, IL, U.S.A., for their assistance. The committee editor and the South Korea section authors would like to thank Youyoung Kim, Washington University School of Law in St. Louis, MO, U.S.A., J.D. Candidate 2015, for citation and editing assistance.

We look forward to seeing the published YIR issue later this year!
PEDS Mission Statement

The Privacy, E-Commerce and Data Security Committee has been established as a resource to assist in the education of international law practitioners on the evolving international laws and practices relating to privacy and data protection, in particular as they relate to global e-business, and to contribute to the development of policy and the promotion of the rule of law in those areas.

Committee Publications


Upcoming Events...

ABA SIL’s 2015 Spring Meeting in Washington, DC

The ABA SIL’s 2015 Spring Meeting in Washington, DC will provide cutting-edge programs with world-class speakers and materials on issues that will enhance attendees’ professional skills including professional ethics. The programs will provide timely and practical guidance to attendees and should reflect the “best thinking” on private and public international law issues.

The International Law Section’s 2015 Spring Meeting will take place from April 28 – May 2, 2015, at the Hyatt Regency on Capitol Hill in Washington. For program proposals or more information please email Katie Woodcock (katherinewoodcock@hotmail.com).

Mark Your Calendar

- 2015 ABA Annual Meeting Chicago July 30-August 4
- 2015 Fall Section Meeting, October 20-24, 2015, Fairmont, The Queen Elizabeth