

**BRAZIL ´S EXPERIENCE IN OBTAINING COOPERATION FROM ISPs IN THE
FIGHT AGAINST CHILD PORNOGRAPHY**

Gilberto Martins de Almeida

Brazil has been ranked fourth¹ amongst the countries which show the highest records of on-line child pornography. According to statistics² gathered by the NGO Safernet, in 2008 the number of new child pornography web sites created reached a thousand ones per month, 76% of which were located in Brazil. Of the more than 57,000 denounces received by such NGO, 90% referred to images present in Orkut, a relationship networking web site maintained by Google, which users are mostly Brazilians. Such volume of cases has led to a series of possibly unprecedented experiences in engaging ISP in the fight against child pornography.

To summarize the reaction so far, such NGO has worked together with the Legislative Branch and with Federal Prosecutor Attorneys in order to compile statistics and take action against pedophiles, to such an extent that Congress set up a Special Committee which convoked the ISPs to cooperate with local authorities³, while Federal Prosecutor Attorneys have filed lawsuits in order to obtain ISPs´ concurrence to enter into cooperation agreements.

Such cooperation agreements include a quite encompassing list of commitments. The main agreement⁴ reached was signed in July, 2008 between Federal Prosecutors of São Paulo and Google, purporting to reduce bureaucracy in shutting down child pornography pages in Orkut. On that occasion, Google Brazil ´s President qualified it as the "largest cooperation by Google with authorities in the world"⁵. Here follows a short description of its contents, which basically imposes a series of duties to Google Brazil:

- 1) Receive judicial or extra-judicial summons on behalf of Google Brazil or on behalf of its parent company, and ensure that such summons are properly addressed, wherever possible;
- 2) Ensure 180-day preservation of connection data including email login, IP number, access logs, data and GMT time of connection, and upon Court order, provide such data in a pre-agreed form;
- 3) Upon request of competent authorities, ensure 180-day preservation of child pornography contents, being such term renewable for equal period; upon Court order, provide such data in the required media;

¹ <http://www.safernet.org.br/site/noticias/orkut-abrir%C3%A1-sigilo-internautas-caso-pedofilia>

² <http://www1.hsbc.com.br/common/seguranca/artigos-seguranca-pedofilia-internet.shtml>

³ In 2008 this allowed identification of pedophiles involved with more than 21 thousand albums of child pornography.

⁴ There are similar agreements in place in other States of Brazil (Rio de Janeiro⁴, Minas Gerais, Ceará).

⁵ <http://br.ibtimes.com/articles/20080702/google-brasil-conduta-ajustamento-combate-pedofilia.htm>

- 4) Inform the Federal Prosecutor Attorneys about situations reported to the National Center for Missing and Exploited Children – NCMEC relating to connections which have taken place in the Brazilian territory;
- 5) Inform Federal Prosecutor Attorneys on any situation of any child pornography situation in the use of Google Brazil’s services;
- 6) Remove illicit contents hosted in Orkut, unless there is some controversy subject to Court decision;
- 7) Support the Federal Police and Federal Prosecutor Attorneys by establishing international cooperation channels for exchange of data and of information;
- 8) Comply with Brazilian substantive and procedural legislation regarding cyber-crimes, and post in Google Brazil’s web site materials for developing awareness on such legislation, and quote it in the “abuse report” and “security centre” of its web site;
- 9) Federal Prosecutor Attorneys commit to submit proper requests, outlining the targeted URL, profile, community, members, page, and messages, wherever possible;
- 10) Make communication tools available to Federal Prosecutor Attorneys for purposes of expediting communication of cyber-crimes which are of the competence of the Federal Justice, responding within maximum 72 hours to requests of removal of illegal contents, and preserving connection and traffic data for 180 days;
- 11) Cooperate with the NGO Safernet to implement a process through which Safernet shall submit up to 500 URLs per day for Google Brazil’s analysis to see whether there are signs of child pornography or whether they were subject of report to the National Center for Missing and Exploited Children – NCMEC, and keep Safernet updated on which of those URLs were removed and store and preserve relevant user data and contents available for the following 180 days;
- 12) Establish a security centre for Internet users in Orkut;
- 13) Implement new filtering technology capable of automatically deleting known child pornography images in Orkut, maintain a list of URLs known for child pornography and share such list with other entities, detect and remove accounts of users already punished with exclusion for child pornography practices, case-by-case review most accessed suspicious pages and pages referring to users who have already engaged in child pornography;
- 14) Display and maintain for free a link to services of the Federal Prosecutors Attorneys and to Safernet in the buttons “abuse report” and “security centre” in Orkut;
- 15) Fund the creation and imprinting of 100.000 copies of a document targeted at children and adolescents containing alerts and recommendation on the ethical and legal use of the Internet, especially of networking communities; such document shall be submitted to approval by the Federal Prosecutor Attorneys;

- 16) Allocate 40 hours/week of a software engineer and of two development analysts, during 90 days, being the first 30 days for joint definition on technical specifications, and the remaining 60 days for tools development;
- 17) Provide a free loan of the equipment required for the use of the tools referred to above; such equipment shall be updated every two years, and provide free technical support for maintenance of said equipment;
- 18) Periodical videoconferences or travels for discussions between technical teams, which costs shall be borne by Google Brazil;
- 19) Development of the tools referred to above shall be completed within the term of 90 days, renewable for equal period;
- 20) Bimonthly meetings with Federal Prosecutors in charge of the "Group of Combat to Cyber-crimes", in order to discuss the efficiency of measures contemplated in the Cooperation Agreement, and to assess their implementation;
- 21) Provide bimonthly reports on the number of removed profiles and communities relating to child pornography or to racism, the time taken for removal, the number of images removed, and the number of user complaints addressed or not addressed;
- 22) Promote continuing technological enhancement necessary for enforcing the commitments contemplated in the Cooperation Agreement;
- 23) Reorganize user support assistance available for users of Orkut so that any user who sends a complaint will receive response within 15 working days informing the status of the matter and the decision on removing the reported contents; increase the number of support assistants to as much as required to fulfill the commitments contemplated in the Cooperation Agreement; create a postal address for those who do not have Internet access and wants to send denunciations, response to which shall be delivered within 30 days; implement a process through which users can quickly obtain the removal of contents which are detrimental to their honor or image;
- 24) The Cooperation Agreement will be in effect for unlimited term of duration, and will terminate once Orkut is no longer offered in Brazil;
- 25) The Cooperation Agreement may be enforced through injunction procedure;
- 26) In the event the Federal Prosecutor Attorneys have understood that Google Brazil has materially failed to comply with the Cooperation Agreement, they shall complain before Google Brazil, which will have a term of 5 days to clarify or solve the problem, otherwise it shall pay a fine of US\$ 10,000.00 per day, besides being subject to injunction for enforcement of its material duties or obligations;
- 27) Wide publicity shall be given to the Cooperation Agreement by means of publication, in the first page of the Sunday edition of at least 4 newspapers of large distribution, of an announcement on the Cooperation Agreement and on its main clauses, as well as on availability of such contents in Orkut web page

and on 12-month availability of such contents in the "abuse report" and "security centre" links of the Orkut web page;

28)The Cooperation Agreement shall be submitted to Court judges in order to settle then-current relevant litigation;

29)Venue shall be of the Courts of the City of Sao Paulo, State of Sao Paulo, Brazil.