

# TozziniFreire.


## Cybernews

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# EDITORIAL

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In this edition of the Cybernews Newsletter, we highlight the main news on data protection in September 2025.

Iniciative is a new legal framework for protecting children and adolescents in the digital environment. “Digital ECA” creates specific rules for the use of apps, electronic games, social media, and software.

The Court of Justice of Santa Catarina (TJSC in Portuguese) confirmed the legitimacy of ECAD in the collection of copyright fees on AI-generated music, performed in public environments.

The Superior Court of Justice (STJ in Portuguese) reaffirmed that credit database managers, as a rule, cannot share consumers’ personal information without their consent. In the analyzed case, although São Paulo Court of Justice (TJSP in Portuguese) considered that the data was not sensitive, STJ reinforced that only credit scores can be provided without the need for the data subject’s prior consent.

Finally, the 3rd Panel of STJ ruled that heirs can access digital assets stored on the deceased’s digital devices, even in cases where the password has not been provided, for the purpose of conducting the probate process.

# GENERAL NEWS

## Digital ECA: new legal framework for protecting children and adolescents

Federal Law No. 15,211/2025, published on September 18, 2025, establishes a new legal framework to protect children and adolescents online. It creates specific rules for the use of apps, electronic games, social media, and software. The initiative, widely known as “Digital ECA,” aims to protect the privacy and development of minors by imposing duties on providers and strengthening parental control mechanisms. This law came into force six months after its publication.

### Prior analysis

The Digital ECA has a broad scope. It covers any information technology product or service **directed to minors or likely to be accessed by them, including those developed or operated abroad.**

Companies must conduct and document a prior analysis of the business model, product design, and the audience actually reached. Criteria such as attractiveness to minors, ease of access, and risks to privacy and development must be evaluated and recorded.

The main topics are:

- *Privacy & Safety by Design and by Default*
- Age verification and parental consent
- Content, safety, and moderation
- Parental supervision: tools and documentation
- Transparency and governance reporting – applicable to platforms with more than one million minor users in Brazil.

The law includes a six-month *vacatio legis* (grace period) after publication, companies should start a phased compliance plan now: conduct a gap assessment; revise policies and interfaces; and compliance.

Foreign companies that offer services covered in Brazil must appoint local legal representation and align global contracts and policies with the new rules established.

Despite the predictions, clear technical guidance from the competent authority are still required to avoid invasive or difficult to implement solutions that do not offer real protection.

## TJSC Authorizes Collection of Copyright Fees in AI-Generated Music

Recently, in the judgment of Interlocutory Appeal No. 5032376-37.2025.8.24.0000, the Court of Justice of Santa Catarina (TJSC in Portuguese) established a relevant understanding on the collection of copyright fees related to music generated by Artificial Intelligence (AI). The ruling emphasizes the importance of copyright protection, even when it comes to compositions that, at first glance, could be considered autonomously generated by automated systems.

In the case in question, the TJSC reaffirmed the legitimacy of the Central Office for Collection and Distribution (ECAD in Portuguese) to collect copyright fees, for songs generated by AI and performed in public environments, without prior identification of the works or proof of authors' affiliation for the collection of copyright fees to be considered legitimate. This understanding is in line with the Copyright Law (Law n. 9,610/1998), which seeks to ensure the effectiveness of creators' rights in a digital environment, where the line between human and automated creation is increasingly blurred.

The Court's decision represents an important step in adapting copyright legislation to the new realities created by AI technology, ensuring the protection of the rights of artists and authors.

While safeguarding creators' rights is imperative, the growing intersection between creativity and technology can lead to an overly restrictive legal environment, inhibiting the creative potential that AI tools can offer. Therefore, an ongoing dialogue between lawmakers, artists, and developers is necessary to ensure that laws evolve in a way that encourages creativity while respecting copyrights, creating a healthy ecosystem for everyone involved.



## STJ Reinforces That Credit Score Banks Cannot Provide Data To Third Parties

In a new ruling, the Superior Court of Justice (STJ in Portuguese) reaffirmed the understanding that credit database managers cannot share consumers' personal information without their consent. This decision came after a special appeal was filed by a consumer whose personal data, such as phone number, address, and monthly income, was disclosed without their consent by a credit scoring company.

The consumer appealed to STJ, claiming the information provided was confidential, therefore their consent was required for the disclosure of data in databases accessible to third parties. Following the unauthorized sharing of data, the consumer demanded an end to data sharing and compensation for non-pecuniary damages.

While São Paulo Court of Justice (TJSP in Portuguese) considered that the shared data was not sensitive and that the defendant company, as a credit bureau, was backed

by specific legislation, the 3<sup>rd</sup> Panel of STJ reasoned that the company can provide third parties only with the credit score without the need for prior consent from the consumer, but that the registration and payment information stored in these databases cannot be directly passed on to third parties, under penalty of violating personality rights. STJ concluded that sharing is only permitted among database managers.

According to justice Nancy Andrichi, non-pecuniary damages are presumed "given the strong feeling of insecurity," and the disclosure of data in violation of legislation must be addressed in view of the resulting non-pecuniary damages.

The recent decision is the third issued by the 3<sup>rd</sup> Panel of STJ, demonstrating the importance of ensuring that data processing be aligned with its purpose and consolidating the understanding that unauthorized data sharing results in compensable non-pecuniary damages.





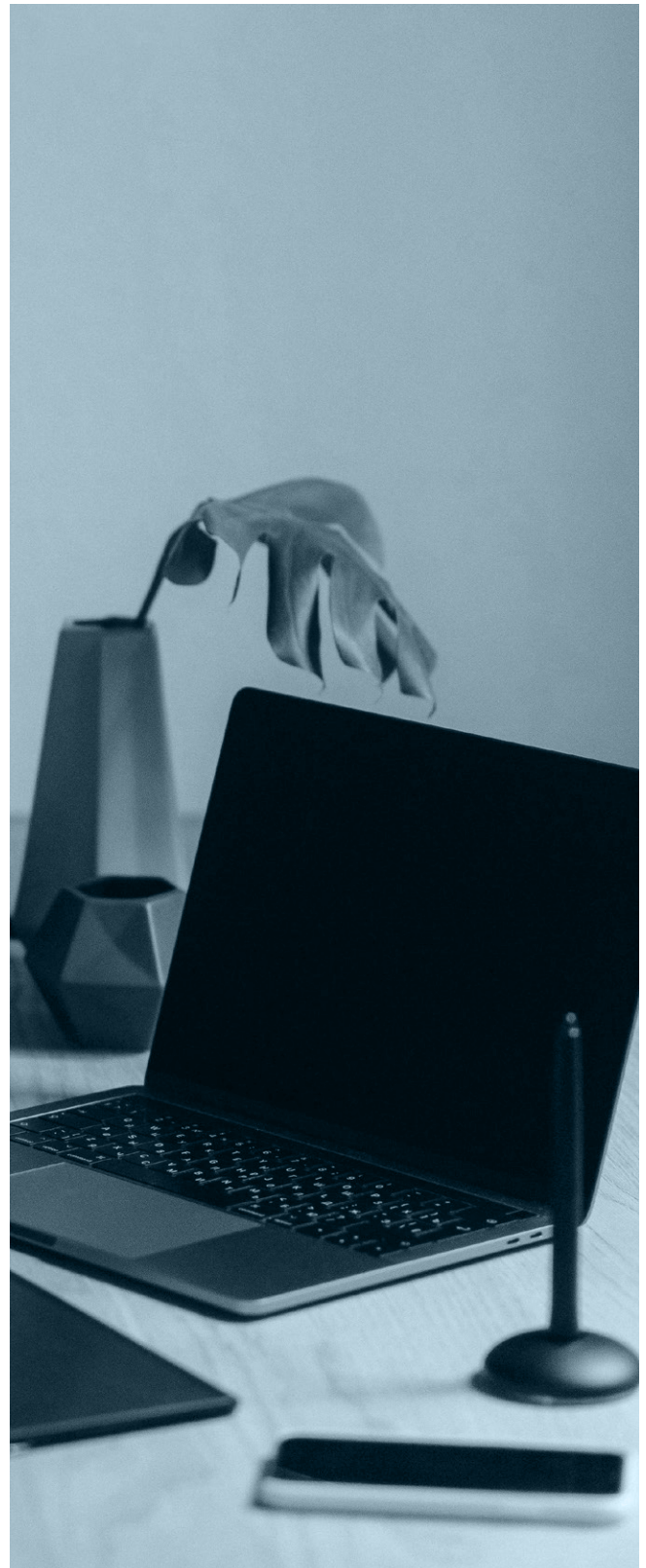
## 3<sup>rd</sup> Panel of STJ Allows Access to Digital Inheritance Without Deceased's Authorization

In the judgment of REsp No. 2124424, the heir requested access to devices belonging to the deceased to identify potential digital assets. In this context, the Superior Court of Justice established the figure of the “digital administrator,” responsible for accessing the devices of the deceased and identifying which digital assets can be transmitted.

The role of the “digital administrator” would be to ensure that the devices are accessed ethically and respectfully, with the sole purpose of identifying assets of economic or sentimental value while preserving intimate information protected by the right to personality.

Justice Rapporteur Nancy Andrighi argued that this figure seeks to prevent unrestricted access to personal data, such as private records and communications protected by passwords. In this regard, she noted that *‘the digital administrator merely assists the judge, with specific technical knowledge, in identifying which assets can be transmitted and which must remain confidential.’*

Justices Humberto Martins, Moura Ribeiro, and Daniela Teixeira supported this understanding, while justice Ricardo Villas Bôas Cueva presented a dissenting opinion, stating that it should be up to the Judiciary Branch to authorize access to information in advance, without the need to create a new figure.





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