

Ethics and technology trade secrets business essay



In a developing and competitive industry monopoly is measured by the potential edge that one has over its competitors every time they make a stand. The progress of such companies lies on the able shoulders of its employees and by the work which they do. Many companies are being created on a brink of ideas or recipes. Companies have resorted to policies of secrecy to survive the market competition. Hence making the employees understand their responsibilities to the company and the companies expectation from them. Many attempts have being made to overthrow companies by methods of learning their secrets and using it to their gain.

By the Law companies have an option to “ PATENT” or make their idea/recipe a “ TRADE SECRET”. Which helps them to maintain they identity in the market. But this is only applicable for a limited period of time and later it will be made public for the greater good. This is to ensure that that the monopoly of a company doesn’t stay forever. Many companies do not resort to patency or marking a trade secret as it will cost them their monopoly by a few years.

ETHICS AND MORALITY:

Ethics is coined from the Greek word “ ETHOS” and it defines the deeds of doing the right thing at the right time. Either the most logically sound behaviour that one would conduct in any situation.

Ethics can be classified into Professional Ethics, Philosophical Ethics and Descriptive Ethics.

Morality is a word coined from the Latin word “ MORES”. It can be defined as a set of rules that guide human behaviour, conduct and habits. It also comprises of principals for evaluating those rules. Morality is a system.

Morality on the other hand follows two rules of conduct:

Directives which guides an individual to conduct. (works at the Microlevel)

Social Policies which create rules of conduct based on Directives. (works at the Macrolevel)

Both Ethics and Morality go hand in hand and refer to the notions of human habits, customs, behaviour and characteristics.

CYBERTECHNOLOGY, CYBERETHICS AND INTELLECTUAL PROPERTY:

Due to the Computer revolution and its on going advance research. It is used in many field of life, from the personal computer to a laptop, printer, even a hand held device like a Personal Digital Assistants (PDAs), mobile smart phones, main frame computers and various networking devices like switches, routers, Wi-fi hubs, Antennas.

Cybertechnology refers to the use of these wide range computing and communication devices.

Cybertechnology has introduced many moral, legal and social issues into view which propose great threat. The issues pertaining to the moral use of Cybertechnology is refereed as “ Cyberethics”. The term cyberethics has

being coined after many changes to its initial definitions from “ Computer ethics” and “ Internet ethics”.

In the world there are many kinds of properties, i. e. Land, vehicles, food, homes, buildings, roads, computers, etc. all these things are tangible physical objects but there also exists another type of property with in the computer world which also occupies space. It is known as an “ Object”. Its is an intangible material and has no pure form of physical existence. The creator of this object is the owner of it. And will be defined as his property as it exists in his domain, his computer. Thus the expression of “ Intellectual Objects” can also be refereed to as “ Intellectual Property”. Many people have used Copyright law, patent law and other legal schemes to protect their intellectual property.

PATENT AND TRADE SECRET:

Patency is a form of legal protection that an individual get for the creation of an invention or process. There are three conditions that an invention should satisfy to be patented are :

Usefulness,

novelty, and

non-obviousness.

The invention should be useful to a company, process or humankind. Next the invention should not be a mire modification of any existing patented

article or creation. Lastly the invention should be non-obvious rather simple to guess what the invention is meant to do.

The Patent act with respect to the Computer and Cybertechnology field is awarded in three types as Design patents, Utility patents and Plant patents. By use of this the owner has complete monopoly of his invention for a period of twenty years in the market.

Trade secrets is generally a secret or a knowledgeable idea that has helped the company build its image, money, fame and energy. It is shown to only a selected few key members of the company. Many of the food and beverage industries have resorted to Trade secret laws to keep their recipes or proprietary information a secret E. g. Coca-Cola, Pepsi, KFC, etc. Other materials like Blueprints, chemical compounds and manufacturing processes can also be made a Trade secret. The monopoly by the use of trade secrets can only be relished for seventeen years, there after the secret will be made public.

TRADE SECRETS AND ITS RELATIONSHIP WITH EMPLOYEES AND MANAGERS:

1) With Employees:

Employees are the building block of any industry. When employees are shown important information that is of the utmost secrecy to the company, its Trade Secret e. g. Plans of work or related to its present work. The employee gains their trust and is taken into confidence with them. It is his foremost responsibility to be loyal to the company and to safeguard its

secrets. Employees should not go rouge and sell company secrets to rival competitors for personal benefits.

2) With Managers:

Managers in a company show their employees the Trade secrets set up by the Pioneers of a

company to help them work better and understand things easily. The decision all rests in the

hands of the managers and with the people who they think are capable to trust. Any

wrong decision can spill disaster to a company's growth and economy.

CASE SUMMARY:

Jeremy Hart a software engineer for Citadel Systems, Inc. (Citadel), a leading software and database application developer. His colleagues and supervisors considered him to be an ace and the most insightful employee. For several years Jeremy and his research team designers were working on a sophisticated new management system. During the course of building the system they incurred many problems and developed revolutionary solutions for them.

In the market , Citadel Systems had an arch-nemesis, the Northwell Networks, Inc. (Northwell). Many of Northwell's employees were already acquainted with Hart and knew of Hart's role in Citadel. A few months ago

the head of Research division at Northwell had approached Hart and offered him a job with higher salary and benefits package than that of Citadel. After a thought Jeremy decided to join Northwell Networks. As Jeremy departed from Citadel he had kept a copy of notes of when he had worked there. Although he never had to sign any non-disclosure agreement regarding his work, Citadel did remind its employees of not discussing work outside of the workplace.

During his time at Northwell, he was developing a same platform of database systems like that of Citadel. He found many new problems which he never faced at Citadel and worked to achieve a solution for them, likewise he also faced problems previously known to him. At that time Hart used to encourage and strive the team towards the solutions that he had already discovered.

Once while having lunch with his supervisors, Hart casually mentioned about the extensive progress that Citadel Inc. made to that of Northwell while reviewing his old notes. Hart's supervisor's said that he could earn a gratitude with the management if he shared those notes with his team to speed things up at Northwell. On hearing this Hart refused his supervisor's proposal. But his supervisor pressurized him and reminded him that he works for Northwell Inc. now and his resistance wouldn't be beneficial for his progress in the future.

Later, Jeremy handed over his notes and eventually Northwell Networks ended up marketing large database management products that were as

similar to Citadel Inc. Thereafter Citadel managers started hearing industrial gossip of about Hart's work in developing and refining Northwell's systems.

CASE ANALYSIS:

The question now prevails whether on hearing the industrial gossip should Citadel Systems Inc. log an Ethical case on Northwell Networks Inc. With matters of Potential Information Sharing and Intellectual Property in them they are a few philosophical theories which suggest the Property ownership rights.

These are described as follows:

The Labour Theory of Property:

Labour theory of property was proposed by a philosopher named John Locke in his Second Treatise on Civil Government during the 17th Century. It stated that " When a person " mixes" his or her labour with the land, that person is entitled to the fruits of his or her labour."

Locke states that when a person toils and plants vegetables in someone else's land. The fruits of the labour made by the person should take the fruit. And that it has no association with the land, water, tools and various other factors (if borrowed from another person) which helped the person grow his vegetables.

Locke's theory has being challenged in many scenarios and has being proved wrong, for example consider a thief who has being stalking a victim so as to wait for the right time to rob him. Eventually when the man gets

robbed of his property the thief thereafter becomes the owner of it. Just because the thief had put his mind, body and sweat to achieve the theft. The questions of morality are not answered well by this theory.

As it only argues that a property right is a natural right and that it can be justified by the labour or toil that one invests in cultivating land or in creating a work of art.

The Utilitarian Theory of Property:

The term Utilitarian comes from the Utilitarian ethical theory formulated by Jeremy Bentham (1748-1832). Its essence of this theory comes from two principals, either, 1) The principal of social utility. And 2) The belief that social utility can be measured by the amount of happiness produced.

This theory of property justifies that property rights is not a natural right but rather artificial rights created by the state. Property rights are granted to individuals and to corporations because they result in greater overall social utility. An illustration of this theory can be explained in the following example of allocation of land property rights to all the people. As every person requires his own piece of land. Hence the land property law is being implemented as it benefits the vast majority of people. Hence defining the principals of Utilitarianism.

The Personality Theory of Property:

The Critics on reviewing the past two theories noted that the theories were only related to a) an individual's harden labour or b) the notion of social

utility for good. But they decided that they were missing the most important fact of life, that is the human touch of creating things.

When making a product the person who creates it indulges his soul in making it. Henceforth putting a bit of his personality into the work. The theory argues that a property right is a moral right and that property rights are justified not because of labour or social utility but because creative works express the personality of the author who creates them.

In case a person creates a poem, then that piece of work will have a bit of the poets personality traits in it. Hence making him the rightful owner of the poem under this theory of property.

With respect to the case on suing Northwell Networks Inc. an argument can be made as follows:

Ethical issues of Citadel Systems Inc.:

Initially Jeremy Hart was working for Citadel Systems Inc.. He and his team members worked hard on making the database system. They put their minds and souls into perfecting and solving the problems that surfaced during their work. Citadel Inc. never kept any information non-disclosure rights on Hart. Suggesting the confidence of Citadel Inc. in Hart and his conduct to the company. Here the only flaw is that Citadel made was a blind assumption in believing one of its employee, looking at his good will. Although it did make sure that the employees of its company were aware not to discuss any work related matters outside the work place. Later on Jeremy Hart left.

Citadel Inc. also did not incorporate to make the know-how of making their Database management system a Trade Secret. This could have being an only reason as to compromise their company's monopoly run in the market.

Ethical issues of Northwell Networks Inc.:

Northwell networks employed Jeremy Hart knowing his work profile in their rival company Citadel Systems Inc. The ethical issue with Northwell is that is it ethical to employ an employee of your rival company for personal benefit. The answer in the most practical sense is " Yes". To gain market majority and to know what the other companies plan for the future, many companies do tend to target key members of rival companies for better growth prospects. The intention to employ Hart was that he could perfect a database system that they had being working on. But the consequence of Hart using his previous gained knowledge for the perfection of the database system all depended on him alone.

Ethical issues of Jeremy Hart:

Jeremy Hart was a very hard working man with developed integrated skills in many fields. He was working for Citadel Inc.. While making the database management system for them he did gain confidence of his fellow colleagues and managers. Hence forth becoming the point man of the company. Hart kept notes of his work at Citadel Inc.. Many people make notes of many things at work and are personal to them. The company did not take responsible measures to maintain secrecy of information and never kept a check over Hart, if he was maintaining any such records. But he also was never bound by the right for information non-disclosure applied by the <https://assignbuster.com/ethics-and-technology-trade-secrets-business-essay/>

company. Hence the notes is not part of the company records even when he was still their employee.

Hart later accepted a job with Northwell Networks Inc. as they promised him better payment and growth opportunities. He was made to work on the similar kind of database management system that he had already worked on at Citadel Inc. Hart was a wise person and helped to solve new problems which he had never faced when at Citadel. On the problems he did know to solve he would strive the team and steer them into achieving the solution. This shows that Hart did not spoon feed the solutions to any of his team members. Hence maintaining the originality and novelty of the hard work of his colleagues and team members.

Once while having lunch with his supervisor's he casually mentioned about Citadel's progress which was way ahead to that of Northwell's. His supervisor's urged him to give them the notes so that they could make use of it. And in return they promised him favour with the higher management. Hart disagreed to them. But due to constant pressure from his peers he eventually submitted his notes. By this act, Hart did leak out the secrets of Citadel Systems Inc. and could be taken to trail.

Based on these facts and the theories of Property ownership it can be argued that from the Labour theory of property, in Citadel's case the research team and Jeremy put in their best efforts to create the database system and hence it ownership belongs to them. But when Jeremy moved on over to Northwell Inc., here he did not disclose any of the solutions to the problems of the database systems. He too made them strive for the answers. Hence till this

point even the ownership rights of the product created by Northwell is under Northwell's control. But when Jeremy had submitted his notes and the overall outcome of this act was that both the companies ended up making the same products with similar features. Northwell can create a counter argument on the fact that Citadel Inc. didn't make the know-how of their product a Trade Secret. So this dissolves the case against Northwell Inc. and hence this theory cannot justify any proper bases to put an ethical case against them.

With respect to the Utilitarian theory of property in the market we have two Data management systems produced by two different companies with almost similar features. This creates a matter of choice for the people and they are happy with the outcome of using any of the two. In case the two products were not entirely the same then the one with the best features and performance will create a monopoly in the market over the other. And people buy only the best. Hence both the companies are satisfying the people, either happiness to them and all for the utility of the people. Hence the deeds of the companies manage to achieve Utilitarianism and hence a bases for a case cannot be made from Citadel Inc..

In note to the Personality theory of property, when Jeremy Hart was making the systems in both Citadel and Northwell he had put in them a bit of his personality, but justifying this as his own will not be the right idea and he cannot be the owner of both those products as he himself was working under a company. Here the Database management system is being considered an Intellectual Property created by both Citadel System Inc. and Northwell

Networks Inc. Hence when checked in relation of the products quality, <https://assignbuster.com/ethics-and-technology-trade-secrets-business-essay/>

sophistication, functionality and performance. They were noticeably similar. The only criteria which defines the difference of ownership is that how much personality did Jeremy Hart spend in making them. Initially working with Citadel Inc., he encountered several blind alleys with his designs and then worked extensively creating revolutionary breakthroughs and producing them at the right time. At Northwell Networks Inc. he already carried the knowledge he had gained at Citadel Inc. in favour of him and created the database management system for them. Even though he had faced new problems at Northwell, many were old as he had faced before in Citadel Inc. And later on with the help of his notes, which he gained through his work at Citadel, made it even more easy to implement the database system at Northwell. So the use of his personality was less at Northwell Inc. as compared to that he put in at Citadel systems. Hence with this bases in idea Citadel Systems Inc. might have a chance of suing Northwell Networks Inc. in an ethical lawsuit.

CONCLUSION:

Many of the times companies try to keep their Trade Secrets safe but due to unforeseen circumstances one cannot maintain complete Secrecy.

Eventually with time one can give away secrets like in the case of Jeremy Hart. Even though he had a sense of secrecy towards Citadel Inc. after leaving it. By just mere word of mouth he had to give up on his notes that he accumulated while working there. Northwell Inc. also pressurized Hart at the certain time to pump out information that might be vital to their growth and establishment. In case a Ethical case was booked against Northwell Inc. by Citadel Systems Inc.. The only best choice to them fighting the case with a <https://assignbuster.com/ethics-and-technology-trade-secrets-business-essay/>

stand would be using the Personality Theory of Property. Global Market Espionage is common these days and has being treated with seriousness by law.