

Legal and ethical leadership in management flashcard



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This paper will discuss a scenario involving two competing designer and manufacturing companies and their mutual retailer. The names of the two designer companies are Mathis Inc. and Countess Lori- Ann (CLA). The name of the retailer is Normandale???.

Normandale??? is having trouble profiting from the sales of the high priced clothing items made by Mathis Inc. Normandale??? made a request to CLA to duplicate the clothing made by Mathis Inc. The clothing is to be sold at lower cost, in efforts to help increase their profits. In efforts to aide Countess Lori Ann in duplicating Mathis??? s clothing line; Normandale sends samples and photos of the clothing to CLA. Mathis has discovered that the counterfeit items are being sold, and has requested that Normandale stop selling the imitation product.

Normandale has not complied. This paper will discuss if Normandale??? s behavior was ethical or not, state or federal laws in relation to intellectual property, and if Mathis has incurred any damages. The paper will also cover social responsibility, implementation of ethical codes, and personal and criminal liabilities. Ethical Behavior Ethics is the study of good and bad behavior; while business ethics takes it further to include the good and bad behavior of a business (Kubasek, Breenan, & Browne, 2009). Knock off products are defined as ??? Identical (and usually unauthorized but cheaper) copy of a patented, trademarked, or copyrighter product of work???. (WebFinace Inc. , 2013).

Is it ethical for Normandale to sale the knock off products at lower prices? It was very unethical for Normandale to secretly request and aide a competitor

of Mathis to duplicate the clothing line without consent from the original designer. It was also unethical to sale the product at a lower price. The company broke several business ethics such as being honest, acting with integrity, and several others (Josephson, 2010). Normandale's behavior can definitely be considered unethical under the Humanistic Theory. The conduct of the company did not contribute to the improvement of intelligence, wisdom, and self-restraint (Kubasek, Breenan, & Browne, 2009).

State/Federal Law Pertaining to Intellectual Property Intellectual Property (IP) is property that originated from one's own creativity. Types of Intellectual Property include trademarks, trade secrets, patents, and copyrights (Kubasek, Breenan, & Browne, 2009). Other types of IP are registered designs, plant breeder's rights, and circuit layout design rights (Asia-Pacific Economic Corporation). There are state and federal laws that protect intellectual property. There is the Lanham Act which protects trademarks from unauthorized use in relation to competing or related goods. It was later determined by several states that the use of identical trademarks even on unrelated goods could reduce the value of the mark (Kubasek, Breenan, & Browne, 2009).

So, in order to prevent the devaluing of trademarks, states implemented trademark dilution laws. Trademark dilution laws prohibit the use of famous or distinctive trademarks. Eventually, the federal level implemented the Federal Trademark Dilution Act of 1995 (Kubasek, Breenan, & Browne, 2009). Laws that protect the fashion industry are underdeveloped.

There is not a particular IP right that protects the clothing design's

beauty, artistic, and functional facets. Fashion designers have to categorize
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his or hers design into it usefulness and artistic components, then procure individual protections for each component of its design (Mills, 2009).

Based on the scenario it is not stated if the designs are protected (or considered intellectual property) or not, so it cannot be stated how the federal or state laws apply in this case. Damages Due to Normandale??? s conduct Mathis suffered a profit loss. If there is an actual legal violation, Mathis would have to prove that had Normandale not acquired knockoff products of Mathis design and sold them at cheaper prices there would have been an increase in their sales revenue (Berkely Law, 2010). Being that the articles are practically identical, there can be some confusion on the part of the consumer as to who the designer is.

This could be a form of trade dress infringement as long as Mathis Inc. can prove that the trade dress is nonfunctional, distinctive or has secondary meaning, and the infringement caused consumer confusion (Kubasek, Breenan, & Browne, 009). Social Responsibility Social Responsibility can be defined as a business being concerned with both its profit and nonprofit enterprises, and there expected and unexpected consequences on others. There are several schools of social responsibility. There is the profit oriented school (Kubasek, Breenan, & Browne, 2009).

Corporations that take on this approach tend to believe that as long as they are increasing profits for their shareholders they are performing their social responsibility duty. This may be the approach for Normandale??? s. Another school of social responsibility is the managerial school (Kubasek, Breenan, &

Browne, 2009). In the managerial school, businesses feel responsible to those who impact their decision and profit making abilities.

Those who are for this approach believe that they must take responsibility for their profit seeking activities. The reason behind this thought process is to build the trust of both their internal and external constituents, which in turn should help increase profit and increase their longevity (Kubasek, Breenan, & Browne, 2009). Next is the institutional school. This school of social responsibility believes that businesses should be held responsible to the government, individual citizens, and their board of directors in regards to their profit seeking activities.

The next school is professional obligation (Kubasek, Breenan, & Browne, 2009). This approach takes on the belief that the word "professional" is used so loosely in today's society that the title does not have any value. In order to increase its value and place more emphasis on the importance of the responsibility taken on, people should be certified as "professionals". These certified "professionals" should be held to a disciplinary code and held accountable for profit seeking activities (Kubasek, Breenan, & Browne, 2009).

The last school is the regulation school of social responsibility. This approach believes that cannot act in a social responsible way on its own. In order to minimize profit seeking activities, there needs to be more government involvement by way of regulations (Kubasek, Breenan, & Browne, 2009).
Ethical Code Implementation In order to prevent or minimize similar

occurrences, Normadale??? s should implement ??? Fair Dealing??? to its business code of ethics.

This code of ethic requires that the company and those representing the company conduct themselves in an honest and ethical manner at all times. It also requires that ??? They shall act in good faith, with due care, and shall engage only in fair and open competition, by treating ethically competitors, suppliers, customers, and colleagues. Stealing proprietary information, possessing trade secret information that was obtained without the owner??? s consent, or inducing such disclosures by past or present employees of other companies is prohibited. No Covered Party should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair practice??? (Berkshire Hathaway Inc. , 2012).

Personal/Criminal Liability Personal liability is when an individual is financially obligated to pay restitution (WebFinance Inc. , 2013). Criminal liability is being legally responsible for breaking the law or committing a criminal act.

The scenario does not state if the designs are actually protected or considered intellectual property. A conclusion cannot be drawn as to whether or not the owners should or could be held personally or criminally liable.

Conclusion There scenario does not seem to provide enough information to determine if there is actually any intellectual property involved.

A conclusion cannot be drawn as to which categories of intellectual property this scenario fits into, such as trademark, trade secret, patents, and copyrights. There appears to be some serious ethical issues within

Normandale?? s in reference to honesty, truth, and fair dealings. The issues need to be addressed and rectified.

References
<https://intellectualpropertyexplorer.com/what-is-intellectual-property/>
www.law.berkeley.edu/files/bclt_PatentDamages_Ed.pdf
www.berkshirehathaway.com/govern/ethics.pdf
<http://definitions.uslegal.com/i/intellectual-property/>
<http://www.businessdictionary.com/definition/personal-liability.html>