

Law the social network movies essay

[Literature](#), [Russian Literature](#)



Introduction

The Social network movie depicts the establishment of Facebook, which is a social networking website and the lawsuits that followed due to its establishment. This paper critically analyses the lawsuits between Facebook and the Winklevoss twins (Noughton 45). The paper provides an overview of the legal and ethical issues involved in the dispute between Facebook and the Winklevoss twins, the essay also reflects and discusses on the public policy favoring settlement agreements, and the various forms of ADR and their respective advantages and disadvantages in the context of the dispute between Facebook and the Winklevoss twins. In addition, the paper also discusses the various forms of alternative dispute resolution, and the method selected by the parties involved in the Facebook case.

The Social network movie depicts the Winklevoss twins as victims, in the sense that they invent Facebook, after which their idea is stolen and transformed into an incredible fortune. The agreement reached between the Winklevoss twins and Facebook was that they would get \$ 20 million cash, and a partial ownership of Facebook (Lynch 213). Currently, Facebook has a net worth value of \$ 160 million (Noughton 45). Despite the initial settlement, the Winklevoss twins had since changed their initial agreement. The principal issue of dispute in question is that the market value of Facebook has quadrupled since the time of agreement, as such the Winklevoss twins are of the view that the settlement value is also subject to being quadrupled. The legal issues in the dispute between the Winklevoss twins and Facebook include breach of the implied contract, which in this case was a verbal agreement between Facebook founders and the Winklevoss

twins; breach of business fiduciary duty and fraud and breach of confidence. Most of the legal lawsuits filed by the Winklevoss twins were based on the arguments that they were misled in terms of the appropriations of the business value and its prospective growth. As such, the Winklevoss twins sued Facebook on the basis of infringement of copyrights, unfair business practices and contract breaches. Some of the ethical issues in the case involved unfair enrichment, the breach of the duty associated with good faith and dealings that are deemed fair, fraud and confidence breaches (Lynch 213). In addition, misappropriation of the secrets relating to the trade, deliberate interference of the potential business advantage and the breach associated with the duty of good faith are prime examples of the ethical issues in the dispute between Facebook and the Winklevoss twins. On a similar account, Facebook also filed a lawsuit against the Winklevoss twins for unjust business practices and instances of business torts (Noughton 45). A settlement agreement can be perceived as an agreement that is subject to termination through processes such as mutual concessions, which refers to a claim that has been disputed with ethical intentions and takes into account the legal considerations of the case at hand. In most cases, settlement agreements serve as a methodology to avoid or put an end to cases involving litigation. The public policy is in line with settlement of litigation, in addition, it is settlement agreements are favored under public policies, and is subject to enforcement, whenever it is possible. This implies that it is an obligation of the law to protect and put into effect settlement contracts, provided they are fairly constructed and do not have any legal flaws. The public policy also favors the use of voluntary resolution of conflicts, whereby

the parties in dispute can resolve their differences without involving the court (Lynch 213). This is typical in the case where the settlement agreements are devoid of mistakes and fraud; implying that the parties in dispute have the obligation to end the conflict at their own discretion. Under the public policy, settlement agreements are perceived to be some form of contract, meaning that their establishment and enforcement are bound under the contract law. Finally, the approval of the settlement agreement is at the discretion of the court, in which the court should exercise this discretion, with the sole purpose of favoring settlement (Pontin 68).

There are various ways of alternative dispute resolution that could have been deployed in this case, without involving the court in addressing the issue. The common types of ADR that could be implemented in the case between Facebook and the Winklevoss twins include negotiation, mediation, collaborative law and arbitration. In negotiation, a third party is not involved in dispute resolution; in addition, participation in dispute resolution is voluntary. In the Facebook dispute, negotiation would have resulted into a detailed agreement that results to the satisfaction of each of the parties (Pontin 68). A significant disadvantage of negotiation is that its principle of voluntary participation means that one party may intentionally refuse to put an end to the settlement, by raising unjustified grievances. Mediation is similar to negotiation, with the only difference being that it involves a third party, who does not impose the solution. The advantage of mediation is that it can result to compromises, which may ultimately lead to an effect dispute resolution.

In the context of collaborative law, each of the parties is represented by an

attorney, who has a significant role of fostering the dispute resolution depending on the agreement terms and conditions. A significant characteristic of this type of ADR is that no party can impose a solution on behalf of the other party, in most cases; the process is formal and involves the court system in attempt to address the dispute. In arbitration, there is voluntary participation and it involves the use of a third party, preferably a private judge, who has the responsibility of imposing a solution. The advantage of arbitration is that it bounds the parties to deploy arbitration in conflict resolution in future (Pontin 68). Arbitration could have been the most effective strategy in the case involving Facebook and the Winklevoss twins.

Works cited

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