Business torts and intellectual property

Institution Affiliation;

Date;

Introduction

Intellectual property is defined as a work or an intention of somebody or an organization. What makes it unique is that it is as a result of creativity and therefore belongs solely to the person or the group. Intellectual property can be in the form of manuscript, formulae and even software. The owner may apply for copyright, trademark or patent. There are laws in the field of intellectual property that protects people's innovations. These laws are very strict and impose punishments on anyone who disregard them.

Torts, on the other hand, are considered to be wrongful acts and behaviors or the infringing of a right of someone. Torts usually lead to civil legal liability. Business torts are, therefore, unlawful acts that infringe somebody's rights in the field of business. Business torts too have legal consequences. These legal implications are civil in nature. An organization or a person that commits wrongs on the other is liable to punishment.

Type of intellectual property present at the issue

In this scenario, there is a type of intellectual property. The kind of intellectual property here is trade secrets. Trade secrets is a type of intellectual property that involves companies or organizations keeping their secret processes, formulae, devices and business information private for them to have a higher advantage over their competitors in the business world. Examples of trade secrets include results of surveys, algorithms of computers, lists of customers and even formulas of making products. Various organizations and business use restricted access to confidential information, non-disclosure, agreements, post-employment covenants and other security practices to keep their trade secrets safely. In this situation, Sam disregards the terms of the non-disclosure agreement he signed with ABC Paper Co. He is approached by XYZ Paper

Co. for employment if he brings his client list with him. This is a breach of the agreement with ABC Paper Co.

Are Sam's actions ethical?

Sam's actions are not ethical for some reasons. As an employee of ABC Paper Co, he should follow the right channel when he feels dissatisfied or when he feels like quitting the company. He should have carried out himself in a professional manner. He, instead, plan on trading the company's (ABC Paper Co) secrets to another company which a rival. He breaks a confidentiality agreement that barred him from doing so. This is wrong and unethical.

Furthermore, when Sam is found downloading his client list by his boss Natalie, he grabs the flash drive he was using for the download and runs out of his office. In the process, he shoves Natalie apart as she attempts to stop him. This results in Natalie falling and hitting her head against the doorknob. She suffers a concussion afterward. This action that is displayed by Sam is very unethical. He has shown disrespect to authority (her boss). His actions have also led to Natalie suffering a concussion. This may lead to a civil suit against Sam.

Types of torts committed.

Sam committed three types of torts in this scenario. These include negligence, strict liability (product liability) and intentional torts. First of all, he committed intentional torts. Intentional torts are the types of torts that occur when a person engages in a certain conduct purposely hence resulting in the injury of another person. Intentional acts are, however, different from criminal cases. In this situation, Sam shoves his boss Natalie intentionally and this result in Natalie's head hitting the doorknob which makes her suffer a concussion. This type of tort committed by Sam is, therefore, considered to be intentional.

Sam also commits a kind of tort called negligence. This is a kind of code of conduct that stipulates that every person should follow a legal obligation or duty so as to reduce any harm whether physical or legal to others. Sam is negligent of the fact that the theft of ABC Paper Co.'s trade secrets could be potentially dangerous for the survival of the company. They client list which he steals can be used XYZ Paper Co to destroy the company. Lastly, it possible to argue that Sam committed strict liability because a possible consequence of his actions is that, the demise of ABC Paper Co. could have adverse effects on the general population who depends on it for survival.

XYZ Paper Co. also commits a tort. The tort committed by the company is an intentional tort. The company persuades Sam to steal is client list which is a product secret of ABC Paper Co. the intention of the company is obviously to overtake ABC Paper Co in business or even may be to cripple its services. The company is well aware that there are laws that prohibit the theft of product secrets of other businesses. This is a case of misappropriation of a trade secret and is punishable by the law.

Do Sam's actions subject him to criminal liability?

Sam's actions subject him to criminal liability for a couple of reasons. First of all, there are strict laws which stipulate that the theft or misappropriation of trade secrets such as client lists is a crime. Sam disobeys the non-disclosure agreement. This alone is enough evidence to prosecute him in a court of law. If taken to a court of law, the jury will determine the extent to which the information is known outside ABC Paper Co. It will also find out the extent to which employees of XYZ Paper Co. know about the client list in question, and it will also look at the measures

taken by ABC Paper Co. to protect its secret information. Furthermore, it will determine the value of the client list stolen to its survival and assess on how important it can be for the rival company. Finally, the jury would determine the ease or how simple the information was stolen could circulate to other businesses. After all that, the jury will automatically determine that Sam's actions subject him to criminal liability considering the situation.

Conclusion

In summary, the situation at hand displays an excellent manner in which misappropriation of trade secrets may result in certain kinds of torts that are punishable by the law. Sam's simple action of stealing his client list from ABC Paper Co. where he works can result in a criminal prosecution because he disregards the laws against theft of trade secrets. Furthermore, he disregards the terms of the non-disclosure agreement.

References

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