

Intellectual Property Ethics Case Study

Part A

G & H Corp, headquartered in Germany, creates a novelty item that is popular with both children and adults. The toy contains several unique design elements that G & H Corp patent to protect the design. The novelty is fairly successful in Germany and throughout Western Europe for several years, as either a toy for children or an adult gag gift.

After several years pass, an American woman, named Ruth, while on a trip through Europe finds this novelty item and brings it back to the United States for her daughter. She happens to work for a major manufacturing company, M Corp, and believes that this novelty item could be successful in America. She has her company contract a supplier to create a similar type of toy. M Corp proceeds to manufacture a toy that closely resembles the G & H Corp toy. It becomes wildly successful for M Corp in the United States providing significant amounts of revenue.

Several more years pass, and the creator of the toy at G & H Corp discovers the copycat product in a store in Europe. G & H Corp protests that the M Corp design is a copy of their product and in violation of their intellectual property rights. As this became a court battle, offers were made from 3rd parties to G & H Corp for the rights to their product. G & H Corp began to sell these rights as a whole instead of selling the rights to use the ideas but maintaining their actual ownership (licensing).

The 3rd parties buying up the rights to G & H Corp's product was, in fact secretly, companies working for and owned by M Corp. M Corp also made a direct offer for one of the key patents, convincing G & H Corp to turn over complete control instead of a licensing arrangement.

Questions for discussion:

1. Should G & H Corp have won the intellectual property court battles?
2. Did they make a mistake selling the complete rights?
3. Was M Corp practicing unethical behavior?

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Part B

M Corp continues to produce its very successful version of the product for many years. An employee of M Corp while consulting for another company MGA, helps create a similar product that begins to take away market share from M Corp's Product. MGA produces the product, along with several variations for the next several years.

M Corp's response is twofold. First, they create a similar product to MGA's; second, M Corp takes MGA to court claiming that the rights to the product belong to M Corp because it was created by one of their employees; a breach of contract for that employee. MGA countersues claiming that M Corp's new product is a copy of their (MGA's) product.

Discussion Questions:

1. Who's right?
2. Does MGA's product belong to M Corp because it was created by one of their employees? Every variation of the product or just the original version?
3. Does MGA have a right to countersue that M Corp's 'New' product is actually just a copy of the MGA product?
4. Was there unethical behavior anywhere?

And now the bonus question... NOT for discussion with your team.

- What products are these really?

Keep your answer to yourself until this question is asked out loud.