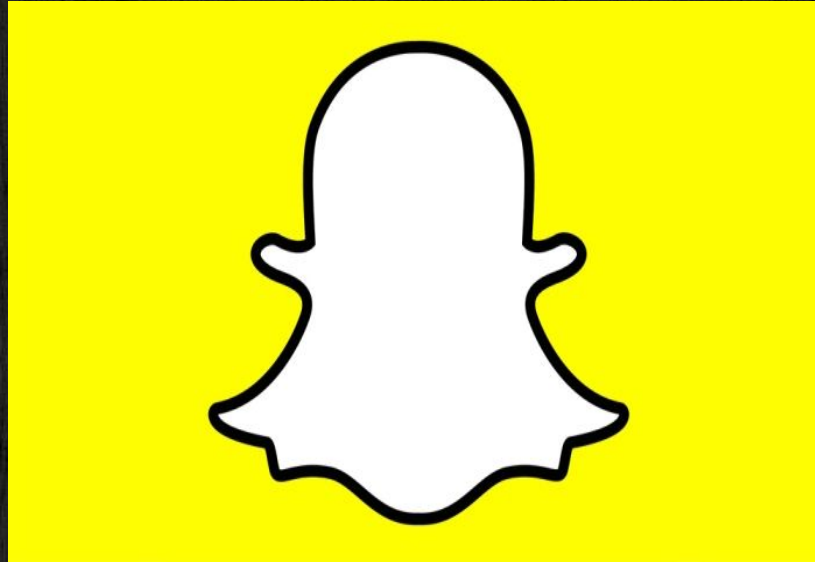
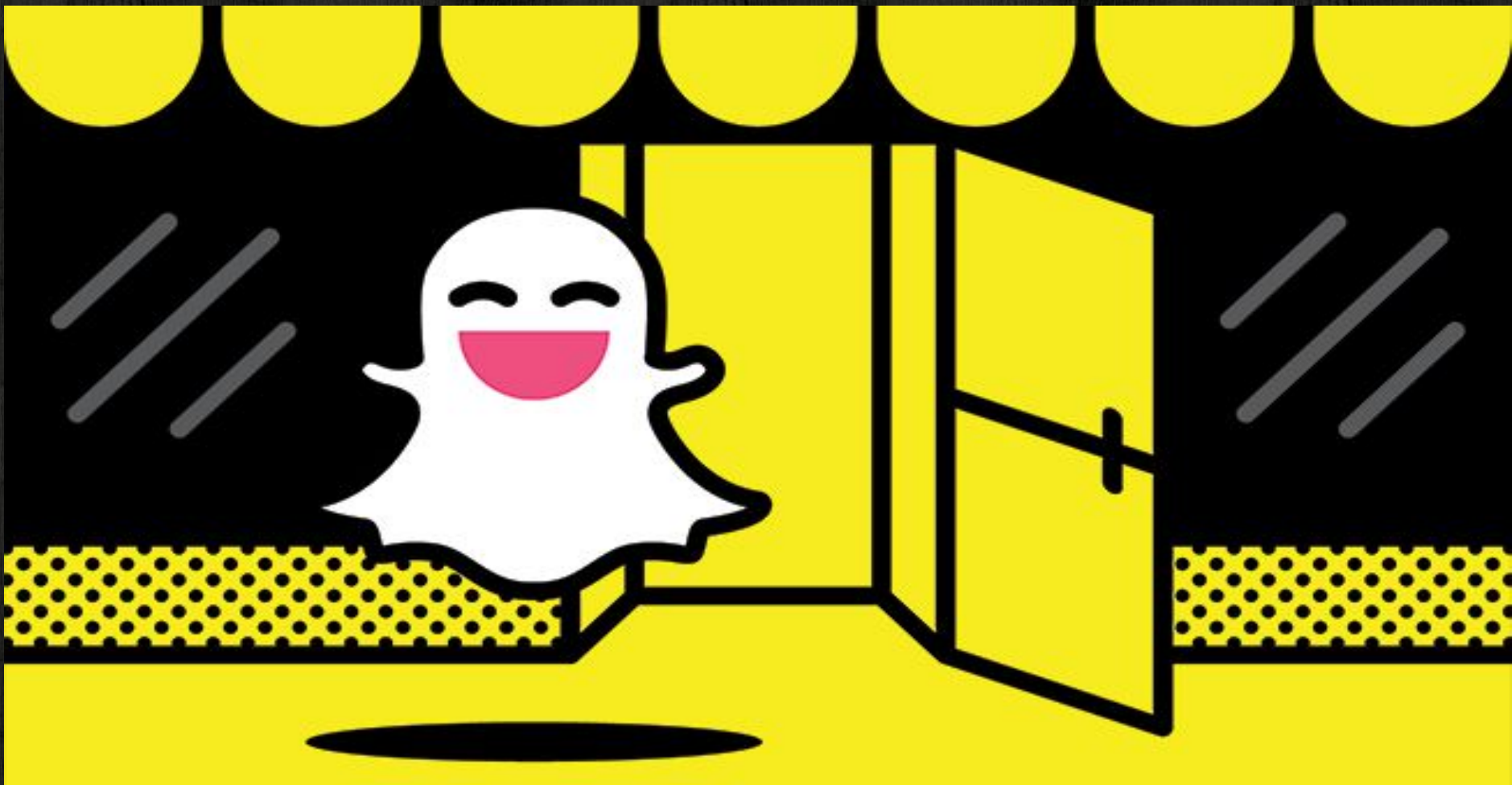


Ethical and Legal Insight on Snap



- Bharati Pradayini Kandakumar
- Lasya Pathuri
- Mahalakshmi
- Francesca Mathew



Introduction

What does Snap do?



A camera company



photos



Up to 10 second
videos

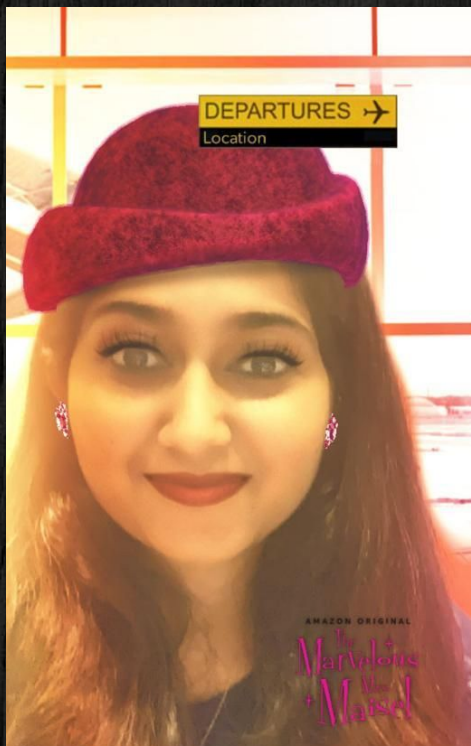


They disappear



Introduction

Why is Snap different?



Code of Conduct

There's a reason the Sarbanes-Oxley Act requires that publicly-traded companies have a code of ethics

Principles for a Code of Conduct:

- Respect for people
- Ethical practices
- Fairness
- Legal requirements
- Safety
- Environmental regulations

‘Respect your Team’

- By stating that they provide equal opportunity in all aspects of employment, Snap withholds the idea that all equals should be treated equally
- It clearly demonstrates that they do not discriminate any individual based on the position or the ranking
- And the statement that they will not tolerate illegal discrimination or harassment of any kind, makes it clear that every employee is protected equally in case of any disparities

‘The Fairness or Justice Approach’

‘Respect our Snapchatters’

- Snap, through this statement, shows its commitment in protecting its one of their important stakeholders, i.e. their Users **‘Right to Privacy’**
- In this digital dominant world, any individual’s privacy protection is highly dependent on safeguarding their digital data

‘ The Rights Approach ’

‘Treat Others with Honesty and Fairness’

‘Avoid Conflicts of Interest’

- Every individual may value certain virtues more than others. But, its individual’s duty to make sure that every actions and decisions must bring the overall good to the company as a whole
- For example, if an important decision made by an individual, impairs the overall result of the company growth or its reputation, then every stakeholders related to the company will be affected and will have to face the circumstances

‘The Common Good Approach’

Other Elements

‘Unfair Competition Laws’ – An antitrust law

‘Trade Controls’

‘Anti-Boycott Laws’

‘Anti-Bribery Laws’

Code of Conduct



Code of Conduct

Respect for people



Ethical practices



Fairness



Legal requirements



Safety



Environmental regulations



Employment Diversity Tagline

Be Yourself, Every Day



Fair Treatment for Protected classes

Employment Inclusion Programs

SnapPride



SnapNoir



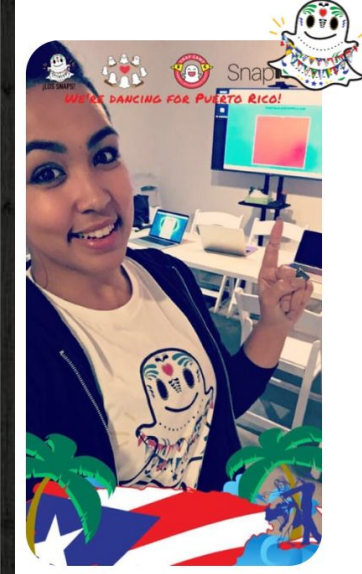
SnapVets



Lady Chillahs



Los Snaps



Employment Challenges

“Insiders say working at Snapchat is like swimming in a shark tank”

- Snap has been plagued by corporate governance issues such as
 - Inappropriate relationships
 - Short-lived Chief executives
 - FBI/DOJ/SEC investigations
- Fired overworked staffs because of being “incomponent”
 - Lack of training
 - Hostile work environment
- Former employees have reported that Snap management stifles dissent
 - Issues with Redesigning
 - Constructive discharge of employees with difference of opinion
 - Wrongful termination of a whistleblower employee who claimed inaccuracies in the reporting of DAUs
- In a survey, 39.2% employees admit that they regret joining Snap



Gender Discrimination issues

- During 2018, there were concerns that layoffs disproportionately targeted women
 - Additional cash and stock for those who raised concerns
 - Reached settlements with three women
- Accusation from a former employee that the company has “Sexist” and “toxic” culture
 - Sexual jokes
 - In office pushup contests
 - Company parties with hired female dancers with revealing clothes

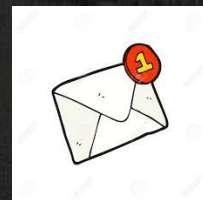


|| These accusation was not denied by management ||

|| Senior VP of engineering admitted that certainly they have more work to do in this aspect ||

Gender Discrimination Email Evidence

- In an email, a former employee Lubetich lists "reminders" of all of the things an engineer can be
 - a person who takes more than two days off when their child is born
 - a person who isn't straight or doesn't want to get married and have kids
 - a person of color
 - woman
- It implied that this list of traits are not valued at Snap and are viewed as a less "eligible" engineer

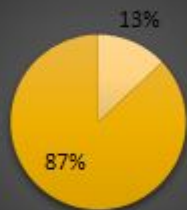


||The letter was a really good wake-up call for us," said Snap CEO Evan Spiegel ||

Snap's response on Discrimination allegations

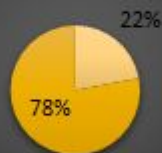
Snap now says that it's working hard to remedy the issues highlighted by Shannon

Tech roles



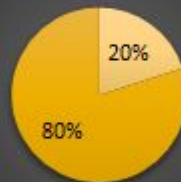
■ Women ■ Men

**Senior
Managers**



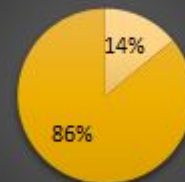
■ Women ■ Men

VPs



■ Women ■ Men

Board



■ Women ■ Men

Employment Diversity and Discrimination – Judgement



- World population – 52% women and 48% men
- In IT related jobs – only 25% women and only 2% women from underrepresented minorities
- Diversity in companies lead by example and contribute to human progress by breaking down systemic barriers that lead to people feeling excluded
- Yet to publicly produce a diversity report
- Snap has brought its 1st Diversity and Inclusion lead recently
- Even though, Snap is making some efforts now, it has to do more to improve inclusion and should strive to be a leader when it comes to Diversity and Inclusion

Eyebob v. Snap

IS SNAP'S USE OF THE SPECTACLES MARK ETHICAL WHEN THERE IS EXISTENCE OF AN UNDISPUTED TRADEMARK ON A SIMILAR LOGO?



Lawsuits Involving Snap



- EYEB OBS, LLC v. SNAP, INC

ISSUES IN CONSIDERATION

- trademark-infringement action brought by plaintiff Eyebobs, LLC against defendant Snap, Inc. against their attempted infringement upon the registered trademark of Eyebob as well as common law trademark
- Eyebob is in the business of selling designs and reading glasses, including reading sunglasses
- They possess an incontestable registered trademark on their brand symbol which consists of oval upward looking cartoon eyes often placed close to their brand name “Eyebobs” against a bright yellow background
- This is further supported with an unregistered common law trademark that takes ownership of the cartoon designed eyeball itself
- Snaps use of a similar logo on a commercial product “Spectacles” it is in the process of launching has raised concerns over its similarity to Eyebobs sunglasses and the continued goodwill it has accumulated over the years



Rules : What does the law mandate?

- EYEBOS, LLC v. SNAP, INC

STATUTES & LAWS GOVERNING THE CASE

- **§ 35 of the Lanham Act for infringing the Registered Mark**
provides a remedy in false advertising, trademark infringement and dilution cases allowing for a plaintiff's recovery of illicit profits earned by a defendant that are attributable to its wrongful conduct
- **§ 43(a) of the Lanham Act for infringing the Common-Law Mark**
The owner of a famous mark that is distinctive , inherently or through acquired distinctiveness shall be entitled to an injunction against another person who at any other time after the owners mark became famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring
- **Minn. Stat. § 325D.44 of the Minnesota law for engaging in deceptive trade practices**
Prohibits among other things “passing off goods or services as those of another;” causing likelihood of confusion or of misunderstanding as to the source of goods/services;” and “engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.”

Analysis : Reasoning of claims against facts



- EYEBOS, LLC v. SNAP, INC

CLAIM FOR INFRINGING THE REGISTERED MARK

- **Must establish :** Prohibits and penalises a likelihood of confusion, deception, or mistake on the part of an appreciable number of ordinary purchasers as to an association between them due to their common use of the trademarks.
- **Framework**
“SquirtCo factors” in determining the legality of claim
 - (1) the strength of the owner’s mark
 - (2) the similarity between the owner’s mark and the alleged infringer’s mark
 - (3) the degree to which the products compete with each other
 - (4) the alleged infringer’s intent to pass off its goods as those of the trademark owner
 - (5) incidents of actual confusion
 - (6) the type of product, its costs and conditions of purchase

Analysis : Reasoning of claims against facts



- EYEBOS, LLC v. SNAP, INC

CLAIM FOR INFRINGING COMMON LAW MARK

- **Must establish :** Eyebobs must establish that Snap's use of the Spectacles Mark is likely to cause consumers to mistakenly believe that Eyebobs or its products are affiliated with Snap

- **Framework**

The conceptual strength of the Common-Law Mark is probably not as strong as the conceptual strength of the Registered Mark given that the Common-Law Mark is suggestive, while the Registered Mark may be arbitrary or fanciful (highest level of trademark protection)

The common law trademark consists of only the eyeball logo, the Common-Law Mark is more similar to the Spectacles Mark than is the Registered Mark—at least when the Spectacles Mark is used without the word “Spectacles.”

As the record reflects, Snap has not engaged in sustained or large-scale advertising of Spectacles. Instead, Snap's promotion of Spectacles appears to have been limited to setting up temporary Snapbots, and selling Spectacles on a dedicated website

Analysis : Reasoning of claims against facts



-| EYEB OBS, LLC v. SNAP, INC

CLAIM FOR INFRINGING MINNESOTA DECEPTIVE TRADE PRACTICES LAWS

- **Must establish :** Eyebobs must point to evidence demonstrating “that the harm is certain and great due to passing off goods/services as another’s and of such imminence that there is a clear and present need for equitable relief”

- **Court arguments**

The harm that is anticipated by Eyebob is that of “reverse confusion” where the plaintiff (the smaller senior user) fears that its mark will be overwhelmed when the defendant (the larger junior user) saturates the market with its (infringing) mark

Eyebobs does not seriously argue that the Registered Mark has already been overwhelmed, but instead argues that, in the future, the Spectacles Mark is likely to gain sufficient commercial strength to overwhelm the Registered Mark

Eyebobs products are not sold in proximity to Spectacles; no shopper will ever see them sitting next to each other on a shelf or appearing next to each other on a web page. Thus, for actual confusion to arise, Snap would first have to so saturate the market with the Spectacles Mark

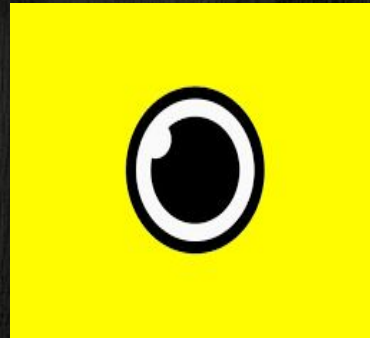
Conclusion :



- EYEBOBS, LLC v. SNAP, INC

verdict delivered by Judge Patrick J Schiltz

confusion, not competition, is the touchstone of
trademark infringement.



Conclusion :



-| EYEB OBS, LLC v. SNAP, INC

Eyebobs has failed to demonstrate that it is likely to suffer irreparable harm if Snap is not enjoined from using the Spectacles Mark

- ❖ Competitive- Proximity factor - there is almost no overlap between the reading glasses marketed by Eyebobs and the Spectacles marketed by Snap. They are very different products that are sold to very different consumers through very different channels. This worked against the plaintiff in this case
- ❖ Not enough evidence in the record to suggest that, the Spectacles Mark has anywhere near the commercial strength that would be necessary to overwhelm the Registered Mark—particularly among consumers who buy Eyebobs' products
- ❖ Consumers who are purchasing expensive products, are likely to take care to ensure that they are getting exactly what they want. Spectacles retail for \$129.99, and a consumer seeking to purchase Spectacles is going to ensure that she gets the one- and-only hands-free recording device that pairs with the Snapchat app. There is little chance that someone looking for a pair of Spectacles will mistakenly believe it to be Eyebobs causing reverse confusion

LIMITATIONS ON LOBBYING



lobbyist

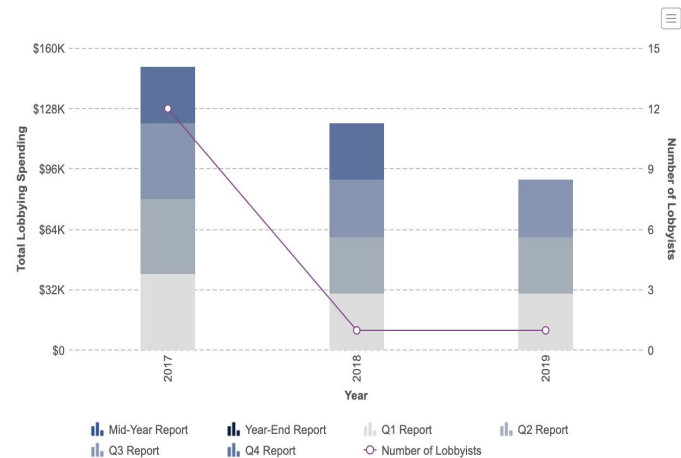


politician

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Government affairs strategy and methodology

Annual Lobbying by Snapchat



Issues Lobbied



Law enforcement cooperation



Consumer protection



Privacy



Safety



Data security



Intermediary liability

Agencies Lobbied



U.S. Senate



U.S. House of Representatives



Federal Trade Commission (FTC)



Natl Telecommunications & Information Administration (NTIA)



Dept of Justice (DOJ)

U.S. Senate and FTC are the major lobbied agencies by Snap.

Government affairs strategy and methodology



- In 2014, Snap first hired its first lobbyist Heather Podesta and Partners, LLC, a lobbying firm based in Washington D.C. This is just after the company's major security breach.
- Snap hired this firm as privacy experts called for an investigation from the Federal Trade Commission against this security breach. This firm helped Snap to promote policies favorable to the company and also educating policymakers regarding the application's operation and practice.
- FTC also alleged Snap that the company deceived consumers over the amount of personal data it collected and the security measures taken to protect that data from misuse and unauthorized disclosure. In the settlement for this case Snap has to implement a comprehensive privacy program that will be monitored by an independent privacy professional.
- In 2015, Snapchat has hired a second team of lobbyists, this time from a firm with Republican ties, to advocate for the app as Congress considers changes to information privacy legislation law. It has been hired to monitor policy related to data privacy, security and other issues impacting application based companies.

Government affairs strategy and methodology



- In 2016 there is an allegation that the Snap Discover feature serves sexually explicit content to minors without warning.
- In early 2017, Snap hired D.C.-based Monument Policy to help it in areas including “Technology, cyber security and lawful access,”
- In 2017, Snap alleged issuing materially false and misleading statements to investors influencing its share price. Plaintiffs filed a class action. The U.S. Justice Department and Securities and Exchange Commission have subpoenaed Snap for information about its March 2017 initial public offering.
- In 2018, Snap Inc. lobbied DOJ and also NATL for issues related to law enforcement cooperation.
- In the year 2018 and 2019, Gina Woodworth served as a lobbyist for Snap for Issues related to consumer protection, privacy, safety, and data security.

Conclusion

- ◆ **Code of conduct** – Needs improvement from the employees perspective
- ◆ **Employment Discrimination** – Should definitely take more efforts to improve the company culture and have inclusion
- ◆ **Lawsuits** – Can work on improving copyright infringement areas, thus avoiding further law suites
- ◆ **Lobbying** – Privacy is the main concern

Thank You!!!

