Case Studies

Techdirt Sued for Defamation, China's Great Firewall, Target Hires Key Executive Away from Amazon and Intellectual Property Fight Over Virtual Reality Headset

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Techdirt Sued for Defamation

(Questions from EthicsInInformationTechnology6thEdition pages 214-215)

1. Considering the reported event, Techdirt is clearly representing an important topic for an independent media concerned with topics like technology, public policy, and freedom of speech. As Techdirt provides opinions and viewpoints on complex legal and technological issues, the site has found its audience. On the purpose in the current media environment, its independence as a voice seems to have been useful. Dr. Shiva Ayyadurai's case shows is another instance and a trend towards the suppression of free speech by independent journalists that challenge powerful people. The principles of freedom of speech which is important for the conduct of democratic discussions, would be invalid if the legal actions were allowed to silence opponents.

   This does not, however, mean that Techdirt or any other media organization for that matter should be immune to criticism. Like any other platform with a news sharing format, Techdirt must stand for the reliability and objectivity of the information being posted, especially if the material in question involves such topics or personalities as this article. It is important that free speech and ethical journalism settle themselves. Even small media outlets are thankful to follow the standards set for the work of journalists.

2. A debate concerning email's origin triggered by a claim of the Indian-American politician Dr. Shiva Ayyadurai, who claimed to have invented it, which heavily sounded both in the forum and in his website. Ayyadurai wrote in the late 1970s that he developed the electronic-mail system while suggesting an Inbox, the Outbox, CC, BCC, and Attachments made his work distinct, he is the original inventor of email. One of the major foundations of his theory is the particular design and operation of the system he developed for the University of Medicine and Dentistry of New Jersey (UMDNJ).

   Email as a concept was in work by the time Ayyadurai was creating his system and there were other systems which combined similar functions. In this respect critics claim that he did not create the email himself but what he did was to come up with a development or an enhancement on existing technology. Although Ayyadurai has given a good account of his inventions, he is less convincing because of the electronic message prehistory up to 1978.

3. In the defamation action[1], Mike Masnick may be arguing that he addressed himself under the privilege of the first Amendment and especially since the comments that he made on Shiva Ayyadurai are statements of opinions given that Ayyadurai is a public figure. In defamation proceedings, public persons are required to satisfy the standard of genuine hatred, which is higher than the ordinary one. Indeed, this means that Masnick would have had to behave recklessly with regards to the facts or, in some cases, lie. Reality can also be used to Masnick's benefit because he can argue that everything, he said aligns with the standard historiography of how the email was invented, with credit given to Ray Tomlinson and other early scientists before Ayyadurai's technique in 1978. It is possible to declare that by showing Taylor guilty of defamation based on his comments it is possible to strengthen the views with other statements of the specialists.

   Ayyadurai's lawyer may choose to focus on proving that the Techdirt posted malicious and false information with the aim of prejudice Ayyadurai. Such a position might be employed by Ayyadurai in order to show that by using words like "fraudster," Techdirt transitioned from mere opinion to image libel that caused a client emotional and professional harm. Nevertheless, calling on the companies who own social media accounts where endorsements are made towards Masnick to delete such posts might not work. This might seem like censorship, and if that's the case, it will only serve to make the posts that they want removed even more popular through what is known as the Streisand effect. All these strategies can be seen as an attempt to fit free speech and discussion because that would not be good for Ayyadurai's image in the eyes of the public.

China's Great Firewall

(Questions from EthicsInInformationTechnology6thEdition pages 215-216)

1. A more acceptable Internet power which would however allow for some measure of free speech in controlled states would be a rank system in which governments agree to make clear and public certain prohibited contents. This concept would permit the individuals to the access to the international platforms and information but with the limitations that could be linked only to this or that, the absolutely necessary in fact, functions, for instance, the protection of the public or the defense of a state rather than the complete prohibition or vast monitoring. These limitations should of course be clearly stated and should be the

[1] Cullins, A. (2017, September 6). *Techdirt's Mike Masnick defeats $15m libel lawsuit from self-proclaimed inventor of email*. The Hollywood Reporter. https://www.hollywoodreporter.com/business/business-news/techdirts-mike-masnick-defeats-15m-libel-lawsuit-proclaimed-inventor-email-1036070/

responsibility of another person or agency so that excessive censorship[2] is avoided and the liberty of speech of the public takes place. In this way governments can still have some say on the material that is posted on the internet without having to block as much as they do in countries such as China.

In addition, a model like this can develop free public spaces for this purpose that are monitored but not controlled by the state. Such local SM platforms may be built with the ideas of participation by people and monitoring by the government, letting people engage in social and political discourse without being shut down on a large scale. This, in turn, means that this mix approach might help to achieve a compromise between the free speech, the need for which is a turning human right, and governmental demands for stability and safety of the digital space even in the countries where the legislation is rather strict.

2. Global Internet users would probably get offended if sites like Facebook or YouTube began to profile their users and censor content to support Chinese laws. Rewind that such activities would harm their platforms' reputation in terms of being platforms for free speech as users and other advocacy organizations advertising and supporting speech freedom and privacy would criticize the platforms. Many users may regard this as a deviation of the principles of the platforms especially within the democracy. In addition, to escape censorship and monitoring, activists and technologists may get inspired by such a change to build decentralized or safer platforms.

   There are massive potential informal telecommunication markets that information technology businesses should consider before they decide to enter the Chinese market by assessing these major ethical and financial factors despite this. China has great economic potential because of the approximate number of users and a rapidly growing digital business that can lead to high revenue. The moral conflict escalates, however, when to soothe Chinese request for censorship and surveillance means that they become a party to human rights abuses as in suppressing political opposition and infringing on the privacy of users. Companies gain is to determine if the potential benefits of joining the Chinese market outweigh the threat to their users, principles, and reputation worldwide, particularly where digital rights are considered to be critical. That is why decision making like this one presents a problem between the profit and the ethical thing to do.

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[2] Wang, Y. (2020, October 28). *In China, the "great firewall" is changing a generation*. Human Rights Watch. https://www.hrw.org/news/2020/09/01/china-great-firewall-changing-generation

3. Although people enjoy privileges of free speech on the Internet, there are some valid reasons why some sorts of speech cannot be allowed in cyberspace. The use of the laws against hate speech is one of them. Such types of speech restraints might be useful in constructing the scene in the social media ones that would be agreeable for everybody because it is the same platforms where announcements containing hatred comments that can cause persecution or violence are spread. By preserving consumers from turning into aggressive faces or violent, societies need to ensure that online conversation does not create an unfriendly environment.

   Rules that accept factual information may have to be important in respective times when fake information can be easily spread in specific areas of social, political and health issues. Platforms can navigate the way around a more heavy-handed approach of simply removing information outright by flagging or banning content that has been found to be scientifically misleading or fake, and instead guide users towards more dependable information. It can maintain a great variety of opinions and discussions while also enhancing user's decision-making and enhancing the overall quality of online discussions and reducing the impact of fake news on society.

Target Hires Key Executive Away from Amazon

(Questions from EthicsInInformationTechnology6thEdition pages 255-257)

1. Some might state that the case does not meet all the three criteria in the three-factor test needed by Washington state to enforce non-compete clauses. Initially, maybe, Amazon has a justifiable reason of protecting goodwill and trade secrets but the restraint in question may not be necessary in the strictest sense[3]. Valdez had responsibilities for operations and logistics as Amazon employee however questions arise whether the knowledge acquired is desirable or relevant for Target or whether the observations could be of regard to Target, it is advisable to ask whether the particular knowledge acquired while working for Amazon is appropriate or useful for the company's competitive strategy. Several questions arise when considering Valdez's activities

   The second criteria are whether the agreement confines the parties more than is necessary with regards to competition. The Second Circuit might not agree with this analysis if Valdez

[3] Wahba, P. (2016, March 22). *Amazon sues Star Exec who is defecting to target*. Yahoo! Finance. https://finance.yahoo.com/news/amazon-sues-star-exec-defecting-165412594.html

never actively enforces Amazon's strategies in his place of work, Target, so the 18-month non-compete clause's downside may be considered severe if Valdez cannot pursue his profession without compelling evidence of harm to Amazon's supply chain. Last but not the least, there is concern for the loss of public interest if Valdez is unable to practice his craft in some capacity in the job market and this limits his experience, expertise and therefore the industries talent pool.

2. Both Target and Amazon may accept a fair number of conditions to control their interests and let Arthur Valdez fulfill his professional plans without compromising Amazon's data. First of all, non-compete for 18 months could be changed to something more realistic as 6-12 months. In reaching such a deal, Valdez would be able to join Target without placing Amazon in a disadvantaged position and without ensuring that others do not use the secret strategies he formulated while in the company.

   Other conditions that may be included in the settlement are restriction on disclosure that gives a clear account of what specific policy information Valdez cannot reveal to Target. This would let Valdez work in a new way and let Amazon have peace of mind about its private approach. However, a provision that allows Valdez to work on other projects not related to core strategies of Amazon's logistics means that it will be easier for him to join Target while still keeping a concrete competitive edge from Amazon. Lastly, if both business entities decide to come to public with the agreement, then any future issues or negative perception in the market can be addressed and this can work wonders in helping the businesses set themselves up as competitive giants in the industry.

3. While employment contracts with restrictions from certain employment and businesses contain supplies that call for ban of competitions, the situation is often illogical, acting as a restrictive toward innovation. All these provisions aimed at safeguarding the business's confidential information and trade secrets, it may require to survive in the market. Organizations may believe they are defending their innovative processes by preventing their workers from telling their information to competitors[4]. But this also results to the culture of fear and delay because workers are chained and are less motivated to create new ideas or approaches because of legal constraints that cannot be controlled. Creativity that often

[4] Jones, D. (2016, March 22). *Amazon sues executive recently hired by Target*. Twin Cities. https://www.twincities.com/2016/03/22/amazon-sues-executive-recently-hired-by-target/

translates to idea sharing alongside talent limitation delays the efficiency of the sector whenever gifted individuals are limited in their ability to travel across the industry.

Nevertheless, the implication of non-compete agreements on qualified individuals is most often immovability despite some stakeholders arguing that they protect intellectual property and adopt investments. Low mobility also meant that there could be little variety in the ideas and approaches within sectors if creative talent was firmly placed in a small number of organizations. Moreover, if individuals do not have the freedom to-switch careers whenever they want, and knowing that employment opportunities exist in few occupations, then it implies that such people might not be encouraged to take risks or innovative in their problem solving. Therefore, on the one hand, even if many non-compete agreement are called to protect corporation's interests, in the long run, they prevent free sharing of competitive ideas which is key towards the innovation and development of an industry.

Intellectual Property Fight Over Virtual Reality Headset

(Questions from EthicsInInformationTechnology6thEdition pages 257-258)

1. The lawsuit between ZeniMax and Oculus has had a relatively big influence on Facebook since the company has made considerable investments in virtual reality. When the jury first awarded ZeniMax $500 million for breaking non-disclosure and copyright, it opened terrifying questions about the future of Oculus and Facebook as legal and financial players in the virtual reality industry. It did not harm Oculus's sales or Facebook's profitability over the long-term, despite increasing severe legal risks. After the case, Oculus continued to come out with new products and adding to their portfolio as indicated which leads to new concerns about how this will affect other game developers.

   However, Facebook and ZeniMax reached a compromise indicating their readiness to leave the case behind and focus on introducing VR technology instead. In this case, Oculus was in a point of strengthening its cooperation with game companies like Bethesda which was a part of ZeniMax, to enable more games on the Oculus platform. Although it would have been cheaper for Facebook to settle the case, the earnings and the shares of the company did not dip much in the short timespan before and after the decision, more it is important the long-term vision of VR is still good despite all the case.

2. Currently, paraphrase is likely to be unclear in code as programming solutions evolve, and become more complex as they increase in size. There is a way to examine code, utilizes

specialist software tools, for example, static analysis tools or the plagiarism detection systems as Measure of Software similarities (MOSS). These techniques may be able to present code patterns that may pose of paraphrase or copying, the structural similarities and usage of variable names. Peer reviews and code audits also help in preventing paraphrasing by making the developers defend their thoughts and decision while coding and they provide us with the sources to read from.

Depending on the nature of the code and its uniqueness, the concept of paraphrase will fall under the domain of copyright or of patent violation. Copyright law protects the exhibition of concepts. This means that the while a certain code may be protected, the ideas are not protected in like manner. Regarding to the second scenario, the code that is paraphrased with the result on material change in the original expression will not be a violation of the copyright, however, if the material reworked code defines the protected functionality or a technique then the patents infringement takes place. Consequently, although the reproduction of the structure or a specific mode of use of another's code may cross legal boundaries, similar approaches to solving a particular problem may not necessarily lead to violation.

3. ZeniMax Media and Oculus VR started a legal battle after Facebook bought Oculus in 2014. The case was formally brought to a close in December 2018 in a private settlement[5]. Such settlement came from one legal battle that ZeniMax began by alleging that former employees of the company who moved to Oculus, had taken property secrets and Weblink. The jury verdict of $500 of ZeniMax was reduced to $250 million by a court after it declined an injunction sought by ZeniMax against the sales of Oculus gear.

   Being free from constant legal cases and other trials, both companies were able to go further and Oculus continued the development of virtual reality equipment. For ZeniMax, the deal may further open possible better relations in delivering video games within virtual reality on Oculus. While the exact terms of the settlement remain unclear, there appears to have been a fair deal for Oculus, which is enabling the company to focus on the creation of innovative new products, instead of lawsuits.

[5] Castillo, M. (2018, December 12). *Facebook settles virtual reality lawsuit with ZeniMax over alleged theft of company secrets*. CNBC. https://www.cnbc.com/2018/12/12/facebook-settles-virtual-reality-lawsuit-with-zenimax.html

Thinking over this lawsuit, it is reminded that while legal cases might protect those proprietary assets, they can hinder innovation in terms of cost and attention. It can also be seen that both the accuser and the respondent are likely to gain from the decision in which the future development of virtual-reality is left pure by the priority set by the trial.