**Is it Ethical to “buy” technology from a 3rd party**

**whose it's competitor invented it?**

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The smartphone industry is one of the most competitive in the world. Smartphone companies compete with one another for higher sales, earlier releases of new technology, and even through lawsuits. Whenever a new phone is released it tends to contain many of the same new features as their competitor’s brands. Recently, Samsung filed a lawsuit against Toptec Co Ltd, who make screen components for them, for giving the technology to two Chinese firms that seem to be a competitor with Samsung. Samsung invested a lot in developing the foldable screen and hoped it would give them an edge in the competitive cellphone market. This is a common occurrence in the industry and there is not yet a solution to perfectly protect a company’s intellectual property. This paper will argue that it is wrong for Toptec to sell Samsung’s intellectual property to its competitors without their permission and that it is wrong for the Chinese firm to acquire technology in this way.

In recent decades, the technology of the mobile phone has expanded tremendously. Every year, smartphone companies release their new flagship with a lot of new features and improve the hardware besides software. Each company has their own strength, however, to satisfy customer needs as well as to attract more customers, the companies are required to develop their smartphone in all components so they can compete against other brands. Many lawsuits have been filed every year when a tech company release a new phone because of a similar feature or special hardware to the prior released phone. Those lawsuits tends to be more about smartphones released in the middle or end year because they are more likely to be similar to those who released at the beginning of the year. The details sometimes are very identical that a normal user will not recognize, only the engineering themselves know how to make the products to be a look-alike but not exactly the same. This has raised the concern over the industry because that, although the intellectual property for the design has been approved, with a very small different detail, they can make another legal copy version. Take a look at the Samsung Galaxy Fold (SGF) with their main competitor, Huawei Mate X (HMX) in the Android high-end segment market. The SGF has a foldable design just like you are opening a book with their big screen located inside, meanwhile, HMX has a similar design approach, make the big screen located in the outside, and open it in the other way. An interesting part is that Huawei just reveals their foldable screen technology only after a few days after Samsung made their annual S-series event, while Samsung have made an announcement about that approach half year ago, and the public have never heard about Huawei is in planning or in touch of the foldable design. From Huawei story, which also associates to the Toptec company story, was sue for selling Samsung screen technology to 2 unknown Chinese competitors, has raised a question about the possibility that one of the Chinese company has a relation with Huawei. According to many reliable sources published in December 2018, Toptec was caught while loading a container of product believed to be a modified version of bendy screen technology to a ship that is heading to China. After being reached by one of the Chinese firms just after signing the production deal with Samsung, they setted up a new company and a new manufacturer that has no relation with the current one to avoid any unwanted consequences might happen and also the public eye since the foldable design is a very new concept in the market and it is still, a bit of mystery. According to the agreement, Toptec is required to transfer the bendable technology, the 3D lamination technology and some example of the hardware. Samsung has spent at least 6 years with 130 million dollars to develop this technology and they have hoped it will be their “game changer" in the high-end smartphone market industry. Samsung also expected their new technology would take minimum a year for other brands to catch up in which Samsung is well-known as the company who leads in the foldable smartphone generation. Because of the leaked blueprint, Samsung determined they have lost at least 6 billion dollars in revenue, 800 millions in profit and a possibility of market shares. Moreover, others also got Samsung’s technology can make additional improvement based on the existing material, which not only saves their time but also a huge amount of money, and that could make Samsung from a leader in the new tech to become a joke in the market. Toptec was sued against the “agreement by transferring the intellectual property without any prior knowledge or permission of the owner", according to *NotebookCheck.* From that, many concerns and questions have raised against Toptec company about their ethical perspective in the story.

There are many ethical standards can be used to justify Toptec decision. In Kantianism, Toptec acquired the blueprint from Samsung for intended purpose of production but chose use it as a means to an end to receive extra benefits for themselves. In another justification, if Toptec act was right, it will become a universal moral law in which everyone will follow the same and by then, creates an unjust world where everyone will sell secret of any corporation in return for benefits. Because Toptec is only a third party company, they don't lose anything from any decision, therefore, allow them to make a decision which benefits themselves. Unless Samsung grants them permission, which will never happen, Toptec is treating both Samsung and the Chinese firm unequally. In act utilitarianism, Toptec has gained $14 million in secret contract but on another hand, they are facing a company shut down as well as responsible for jail penalty to all the people who involved. In another perspective, if Toptec continues to do their work ethically, not leaking out any secret, they can still produce the screen component for Samsung and make more than the bribery money. Because harm outweighs the benefits in different perspectives, it is wrong for Toptec to leak the secret of Samsung to Chinese firms in Act Utilitarianism. In comparison using Rule Utilitarianism, Toptec had executed a moral rule which could lead to happiness is, if the foldable screen technology could be developed by many companies, it will reduce the price of the phone and create an opportunity for the customer to have access to it. Meanwhile, if Samsung dominates the market using the new developing screen, they will also dominate and control the price in the market. Contrast with the benefit, Samsung is facing a huge loss in the market shares, revenue and profit for an “exchange” of just $14 million dollars. However, back to the “bright side”, the loss seems to be huge at the moment but in the long term, it will create an opportunity for the mobile phone company to be “creative" with the foldable screen. They could have a different approach to an end of the foldable screen and it will create a diversity in the market. In return, if the companies keep copying each others' design and use it for their head start, nobody would want to create a new feature since they don't get any benefits from it. It’s now then, become a general benefit and with that, Toptec act is still wrong in Rule Utilitarianism justification although there is a good approach from that. In the Social Contract Theory perspective, Samsung and other companies when they sign any contract are expected and stated in the contract that they would like their information to keep confidential. Social Contract is how people treat each other ethically and morally that makes an act acceptable without having to consider under law or agreement. In case that everyone thinks it would build a strong and fair environment, later will discourages the creators to create unique and creative technology. From that, Samsung has the right to expect Toptec to keep its secret technology even without have to state in the production agreement. In different perspectives and different ethical standard analysis, it is concluded that Toptec act is wrong, it does bring benefits to a certain target audience but because it didn't treat everyone equally, it has also violated the intellectual property rules and the harms are out weight the benefits. In an equal consideration, should Toptec company responsible for all the action or the firms that request them to do also needs to take responsibility?

If those Chinese firms didn't reach out to Toptec for demand and give a benefit in return, Toptec wouldn't have to face this situation. Is it, still legal for the Chinese firm to bring that offer to Toptec despite they know it could bring Toptec and even their firm to trouble? In the Chinese's firm perspective, they know there is no way they can achieves the new technology from Samsung so they chose to do it alternatively. Toptec when receiving the offer from the Chinese firms has the right to decline the offer if they it is unethical to do it. What the Chinese firm did was wrong because they are trying to acquire a piece of technology without the permission and consent from the original author due to the intellectual property licensing law. On the other hand, they could wait until the product is released, analyze the specification and start developing from it, but that will be a step behind in the modern technology world. The act that the Chinese firm tries to acquire the technology illegally can also be justified using standard ethical theory. In Act Utilitarianism, the action is considered good because what they give out is only $14 million dollars in return of technology could make the billion dollars in revenue. They should be considered with the worst possible outcome from this, is get caught from violating Intellectual Property rights. Therefore, the act is wrong because it is related to law and rights and any intention to break them is wrong. There are far more consequences from trying to acquire an idea that does not belong to you, from lawsuits to company damage, from losing customers by proving a point that you can't develop new technology feature. In Social Contract Theory, there is no “rules" point out the act of Chinese firm buy to buy the technology from the Toptec is wrong. It is Toptec decision whether to comply with the promise they made with Samsung or not. The Chinese firms give Toptec a benefit in return for a favour, and they did not use Toptec as an end to get the technology or to unfairly achieve anything in Kantianism 2nd Imperative Formulation. But in 1st Imperative Formulation, this kind of act is defeating the purpose of the intellectual property. Intellectual Property is made so that everyone must be respected to the hard work of the creator and comply with any rules for using it and if one person is registering their product for intellectual property recognition or patent recognition and there is another person is trying to copy or steal it, either direct or indirect way, it will make them become vices and unethical. The Chinese firms act for reaching out with Toptec is considered unethical when they are trying to get a right to develop a similar product but not through the owner. They are still taking responsibility, just not as much as Toptec.

The smartphone industry is a very sensitive market. Due to its competitiveness, technology enhances demands and striving for customer satisfaction, they compete with each other non-stop and continuously. The market sometimes forces them to develop a feature or product in an unethical way, including stealing, copying or even bribery. They try in many different methods to acquire from designs, software to hardware and some could be very sneaky to figure out. The Chinese firms were violated the intellectual property made by Samsung to its foldable by trying to acquire it from Toptec without the permission from the owner. It is unethical for Toptec to sell the technology without Samsung consent in return for a personal benefit. The act of Chinese firms and Toptec company have excess the harm of Act Utilitarianism cost Samsung lots of valuable time and money in nothing return for Samsung. This is one of the many cases where the tech company is willing to act unethically, willing to risk in return for a way to survive. Therefore, this is still a problem that even law can't put it into an end, at least at this time.

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