

Paper Topic:

**Legal and Ethical Issues in the Silicon Valley and  
Companies at large in High Tech environment:**

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By

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## **Executive Summary:**

This paper is prepared to study the legal and ethical issues in the high tech businesses in the Silicon Valley, California and around the globe. In my studies of the different companies, I found that a common problem related to legal and ethical issues has its existence in all the companies we studied in the high tech. The most important legal issues were related to intellectual property and the most common ethical issues were related to misuse or over use of company resources in the Silicon Valley firms I interviewed. I had the opportunity to interview Dr. Richard Villalobos, Marketing manager of Cisco Systems, Dr. Sue Van-Atta an independent consultant of Econometrics related studies for high tech firms in the valley and the best tech writer, a well respected author of twelve e-commerce books and a UC Berkeley Professor Ms. Brenda Kennan. In addition, I made every effort to get thorough knowledge from the convincing as well as compelling articles published in the California Management Review, Harvard Business Review and Sloan Management Review. (The references are published at the end of this paper in bibliography section as well as at the end of each page for the convenience of readers).

Interestingly enough, we found the legal and ethical problems are common when it comes to studying the high tech firms in the Silicon Valley or firms at large in the high tech business. For example, the source code of any organization is its intellectual property and there is a vast misuse of this asset. Software is another most commonly misused intellectual property around the globe for the firms in the Silicon Valley. Unauthorized copies of the software programs circulate almost every where in the developing nations and also in the developed nations although usage is not as common as in 3<sup>rd</sup> world countries.

Ethics related issue facing the Silicon Valley firms mostly relate to the excessive use of contents, distribution of printed material without authorization, misuse of company assets like laptops, desktops and even in some cases office space for non business use. All the companies print its policies and procedures regarding ethics in a specially designed and titled book called *the code of ethics book for the employees* but we found (a survey was conducted regarding the code of ethics book and results are mentioned in the following paragraph) hardly anyone read this.

On November 16<sup>th</sup> 2005, early in the morning I went to interview one executive for my ethics paper in the silicon valley, (company advised me not to publish the name of the company and the employees in any document made public, so I am afraid I have to keep the info confidential) with the permission of Senior V. P. President of the company I was allowed to talk to people in the cafeteria where hundreds of people were enjoying the lunch. I asked only one question to all the employees and contractors, I met while they were queuing up for their turn at the cash register: Have you read your company's code of ethics book? And I got many interesting answers. Results are as follows, I spoke to fifty employees of all genders and thirty six said they did not read this company's book because most of the contents are same in all the companies in the valley (they said, if you put the code of ethics book from Cisco, HP, Intel and Sun and read, you would find a lots of similarity) and they have read their previous books regarding the ethics in the organizations. Three staff members did not want to answer any question at all and seven said they have read the book thoroughly. Two said, they only open this book if there is any issue and one said there is no need of business ethics as we are mature enough to decide what is wrong and what is right in the business as well as in our daily life. We studied legal issue have Intellectual Property related issues and in the ethics part, concept of

wrong and right, privacy and confidentiality and the expedite changes in information technology has given birth to ethical issues. For example, during the macro computing systems making copies of the software or staling information (data) from the company machines was almost impossible thing due to the size and speed of the machines. However, now it is all different as size of the computers has gone smaller and smaller and speed to process the information is just reached at seconds.

Also, in the ethics part we studied the medical profession and implementation of ethical values. We found that the competence of the practitioners, validity of the test they conduct using the state of the art technology and the safety of the documents passing from country to country in the networks.

# **Legal and Ethical Issues for Companies in the Silicon Valley and at Large in High Tech Businesses:**

## **Introduction:**

This paper is prepared to understand the legal and ethical issues in the Silicon Valley high tech firms. I would provide solutions of these issues from the perspective of a researcher interested in the high tech firms. Three executives were interviewed for the completion of this paper and fifty individuals working in the different departments of a high tech company were asked questions during their lunch hour about the code of ethics to enhance the learning and to ensure the research conducted for this paper is of great worth to readers, researchers and professionals.

To better understand, the work completed in this paper is divided into three major parts. First the legal issues, second the ethical issues and then the solutions from my perspective to the issues studied.

## **Legal Issues:**

### **Intellectual Property (IP):**

<sup>1</sup>In a broad term Intellectual Property includes Inventions, discoveries, know-how, methods, materials, copyrightable works, original data and other creative or artistic works, which may have commercial value.

What is Intellectual Property? Probably this question would be helpful to understand the word Intellectual Property (IP). <sup>2</sup>Intellectual Property is the term used for any intangible property

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<sup>1</sup> [www.siu.edu/orda/general/glossary.html](http://www.siu.edu/orda/general/glossary.html)

<sup>2</sup> [www.patent.gov.uk/design/glossary/](http://www.patent.gov.uk/design/glossary/)

rights, which are the results of someone's intellectual efforts. Intellectual Property rights include Patents, trademarks, designs, service marks and copyrights. For example, McDonald's "M" with golden arch is a trade mark, any book, publication or article written by scholars is a copyright material and in case of "Java Language" or "J2EE" Sun Micro Systems holds all the Patents rights.

### **Matter of Commercial Value in Intellectual Property:**

Since creative ideas and the expressions of the human mind possess the commercial value<sup>3</sup> and anyone can benefit financially, so, law provides protection to the creator's and researcher's Intellectual Property in the form of Patents, Copyrights and Trademarks. Intellectual Property rights enable the owners to select who may use their Intellectual Property for how long, at what terms and conditions and to protect it from unauthorized use by anyone.

The reason that law provides protection to the creator and researcher is simply to ensure the creativeness and innovation continues in the future and those who do invent and create something unique are rewarded financially for their extraordinary capabilities.

The legal issues in the Silicon Valley mostly relate to intellectual property. Violations of copy rights, patents and licensing agreements are the most important causes of the legal issues in the valley. In the spring 2004 issue of MIT Sloan Management Review, Markus Reitzig wrote an article titled "Strategic Management of Intellectual Property". Mr. Reitzig argued with reference to a<sup>4</sup> source that "in the late 1990s, three quarters of the Fortune 100's total market capitalization was represented by the intangible assets, such as patents, copyrights and trade marks."

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<sup>3</sup> [usinfo.state.gov/topical/econ/ipr/ipr-glossary.htm](http://usinfo.state.gov/topical/econ/ipr/ipr-glossary.htm)

<sup>4</sup> Peter J. King managing partner of Arthur Anderson's IP Asset Management Practice quoted in the introduction to Rembrandts in the Attic: Unlocking the Hidden Value of Patents by K. Rivette and D. Kline; Boston: Harvard Business School Press, 1999.

## **College Students and Copyrighted Material:**

At the moment the music industry face a serious threat from the information communication technologies in the market. The music is a copyrighted material and most of the downloaders would not care about the copyright matters. On September 20<sup>th</sup> 2003 New York Times<sup>5</sup> published an article regarding the music industry. The NY Times article mentioned that The Pew Internet and American Life Project conducted a study that showed 56% of the college students download music, compared with 25% of nonstudents. And those students are more likely than downloaders in general-80% as against 67%- to say they do not care if the music is copyrighted when they download it. The New York Times article further explains that students treat downloading copyrighted material like underage drinking-illegal but not immoral.

## **RIAA and John Does (Unnamed Individuals):**

In February 2004 the Recording Industry Association of America<sup>6</sup> (RIAA) sued 531 John Does (unnamed individuals). The third wave of suits was announced on March 23, 2004, when the RIAA specifically went after college students who had used university networks to share files. Students at New York University, George Washington University, Marquette University, University Of California Berkeley, Indiana University and Stanford University were among those targeted. With these additional suits the RIAA has filed nearly 2000 suits. Four hundred have settled for fees ranging from \$ 2000 to \$ 10,000<sup>7</sup>.

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<sup>5</sup> Zernicke, Kate, "Students Shall Not Download, Yeah, Sure" New York Times September 20<sup>th</sup> 2003

<sup>6</sup> Business and Society Review 110:1 77-96 "Digital Rights and Wrongs: Intellectual Property in the Information Age" by Prof. Norman E. Bowie, Carlson School Of Management, University Of Minnesota.

<sup>7</sup> Graham, Jefferson, "College Students Sued Over Music Downloads." USA Today, March 24, 2003.

Big Champagne (which tracks the file swapping on the internet) estimates that about 250 million songs in MP3 format are being traded each week through the most popular services sharing illegal downloads.<sup>8</sup>

### **Sun Microsystems vs. Kodak, Patents Infringements:**

Almost, small and big firms are talking about their Intellectual Property Rights. Recently, I studied the case of <sup>9</sup>Sun Microsystems vs. Kodak. Kodak sued the Sun Microsystems for patents infringement and asked for one billion dollars in damages. <sup>10</sup>On October 1<sup>st</sup>, the U.S. District Court of Rochester, N.Y., found that Sun Microsystems infringed on three of Kodak's patents when it created Java. This federal jury decision sent the whole Java community in shock. However, <sup>11</sup>Sun settled the case by paying ninety-two million dollars to Kodak the same week to avoid further embarrassment for its state of the art technologies.

Sonia Bodi<sup>12</sup> mentioned in her article about Ernest Kallman's <sup>13</sup> research on Information Technology. Mr. Kallman mentioned the ethical problems related to information technology in the following paragraphs:

- The relationship between people has changed because of communication speed.
- In the electronic form information is more fragile.
- The question of IP, plagiarism, piracy, and privacy appears as a serious issue.
- Efforts to protect often conflict with the desire to share the information.
- Authentication and authorization of information remain a serious issue.

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<sup>8</sup> Nelson, Chris, "A Hit Record by Norah Jones Buoy Industry," The New York Times, February 19, 2004.

<sup>9</sup> [http://www.findarticles.com/p/articles/mi\\_zdewk/is\\_200410/ai\\_n7181676](http://www.findarticles.com/p/articles/mi_zdewk/is_200410/ai_n7181676)

<sup>10</sup> **eWEEK**, October, 2004 by Steven J. Vaughan-Nichols

<sup>11</sup> [http://att.com.com/Sun+settles+Kodaks+Java+suit+for+92+million/2100-1012\\_3-5401804.html](http://att.com.com/Sun+settles+Kodaks+Java+suit+for+92+million/2100-1012_3-5401804.html)

<sup>12</sup> Ethics and Information Technology: Some principles to Guide Students, The Journal of Academic Librarianship, November 1998.

<sup>13</sup> Ernest Kallman and John P. Grillo, Ethical Decision Making and Information Technology: An Introduction with cases (New York: McGraw-Hill, 1996, p. 22.

Mr. Ernest Kallman's research on the ethics and information technology is something I would agree with. The more compelling is the fragility of the information. It can be twisted, misused, excessively used or plagiarized. So, this legal has become a great challenge for companies in the Silicon Valley specifically and global businesses in general.

## **Ethical Issues:**

### **Right, Wrong and Morality;**

Professor Pemberton J. Michael<sup>14</sup> mentioned in his article titled "Through a Glass Darkly: Ethics and Information Technology" that ethics is the study of practices of making right and wrong moral choices—"right" and "wrong" insofar as society can best understand those terms. Ethics lies in the domain of morality rather than in the more ordinary sphere of technical competence.

### **Micro and Macro Computing;**

Professor Thomas G. Goeller in his article<sup>15</sup> mentioned that the change in the size and speed has caused a serious problem in the Information Technology. When there were Macro Computers the privacy and security was not of such a big issue because of the size and speed. However, now that the micro computers have taken place from macro computers and the speed, storage and retrieval is not the issue anymore, so, we face a new dilemma of ethics in IT as well as privacy and security.

The following matrix is designed to better clarify the micro and macro computing and the legal and ethical issue in high tech firms in the Silicon Valley and at large. The rapid

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<sup>14</sup> Through a Glass Darkly: Ethics and Information Technology by Pemberton, Michael in Records Management Quarterly Jan 1998, VOL 32 Issue 1, p76, 8p,

<sup>15</sup> Ethics and Technology in the Developing Nations, published in Business and Society Review on 2001 by Thomas G. Goeller, College of Business of St. John's University in Staten Island, New York.

development in the technologies has made the high tech environment for the organization very complicated to manage.

### **IT and Legal and Ethical Issues in Computing**

	<b>Macro Computing</b>	<b>Micro computing</b>
<b>Advanced Societies</b>	Better security, because of the size and speed it was never so easy to copy the info from the machine.	Strict security enforcements, though risk of data theft is always high due to continuous research and development.
<b>Developing Societies</b>	Poor security enforcements, bureaucratic organizational setup.	Security a serious issue, piracy, plagiarism and data theft a continuous threat.
<b>Ethical Values</b>	In the macro environment organizations trusted their teams to maintain the ethical values when dealing with the sensitive data.	In the micro environment the laws were needed to ensure the company policies are implemented.
<b>Legal</b>	Information remains in the safe hands and strict legal enforcements were not needed.	Strict laws were passed around the globe by the governments to ensure the privacy and security of high tech.
<b>Plagiarism and Overuse</b>	Plagiarism and overuse of information was not such a big issue.	Plagiarism and overuse of information has become a serious issue.

Now that technology has taken too much place in our lives that we can not expect to step back from it, let's analyze one very important aspect of technology from medical point of view in our life. All of us go through changes in our life as the time changes and we grow older. We are facing new ethical issues in the medical profession due to expedite changes in the technology needed to keep us physically and mentally fit, healthy and our bodies functioning. What happened, if the surgeon or related medical staff is not able to operate the technology as it is suggested by the manufacturer, what if the training is not completed as required or what if intentionally or intentionally system requirements were not met?

In the medical profession IT has become a real serious challenge due to the qualification and specialization of medical staff and the involvement of Information Technology in the work environment. In 2002, the famous magazine of "The Clinical Neurophysiologist"<sup>16</sup> published an article written by professors from John Hopkins University School of Medicine, Baltimore, MD, USA. The authors mentioned the following Ethical Issues in the article:

- **Practitioner Competence:** <sup>17</sup>adopting new treatment options, such as virtual reality or telemedicine, or compensatory devices/assistive technology without appropriate training in their use or sufficient empirical support for their efficacy compared to the established methods might be considered unethical.
- **Validity of Test Results and Test Interpretation:** the computerized tests of the patients offer the potential for consistence with standardization. This process guarantees the validity of the data. However, the computer test validity was the area that got the notoriety in the neuropsychological literature.

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<sup>16</sup> Interface of Information technology and Neuropsychology: Ethical Issues and Recommendations By Shane Bush, Richard Naugle And Doug Johnson-Greene in The Clinical Neuropsychologist, 2002, Vol 16, No 4, pp 536-547

<sup>17</sup> Miller and Goldman, 1998. Miller R. A. Schaeffer, K.F., and Meisel, A., 1985. Ethical and legal Issues related to the use of computer programs in clinical medicine. Annals of Internal Medicine, 102, 529-536.

- **Documentation and Confidentiality:** IT has become an integral part of professional's life and offers incredible advantages when used effectively. However, it poses a serious threat to privacy and confidentiality through the use of electronic file transferring<sup>18</sup>.

While IT offers intriguing advantages and add value into the life of all involve in the process it has some disadvantages as well if not used effectively as suggested by the developers.

### **High Tech Businesses, Society and Ethics:**

In this day and age it has become compulsory for the organizations to maintain the highest ethical standards to ensure they fulfill the Corporate Social Responsibility. In the information age, an inappropriate behavior by any organization would be circulated on the Internet and in just minutes the news would reach to millions.

Larry Lu<sup>19</sup> in his article mentioned that it has become very important for the firms to publicize their corporate citizenship because of the damage done by corporate malfeasance over the past few years.

In the same paper Mr. Larry Lu, quote Mark R. Forehand, Assistant Professor of Marketing and International Business at University Of Washington Business School “A lot of firms engage in social responsibility not only because it could improve their image or create a connection with the customer base but because it also helps society.”

The Ethics of Hard Ball<sup>20</sup> an article by UC Berkeley professor on ethics mentioned that “in the game of hard ball, someone has to win and someone has to lose. However, if you play fairly and by the rules, everyone benefits from the conflict. It is not possible to make every one

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<sup>18</sup> Alpert S.A. 1998, Health Care Information: Access, confidentiality, and good practice, In K.W. Goodman, Ethics, computing and medicine: Informatics and The Transformation of Health care, Cambridge, UK. Cambridge University Press.

<sup>19</sup> The Perception of Deception by Larry Lu, MIT Sloan Management Review, Spring 2003, Page 11.

<sup>20</sup> The Ethics Of Hard Ball, by Jeffery A. Barach, California Management Review Vol XXVII No 2, Winter 1985

happy at the same time and some time none of the alternatives would avoid harm. We are often tempted to resign ourselves to calling it a choice between the lesser of two evils. To stay healthy and become a winner, the hard ball player needs the ability to face the ethical challenges of the game.”

## **Conclusion:**

In the last two or so decades we have seen more and more business schools in the world to prepare the managers to deal with the challenges. While the managers have been successful in making money by hook or by crook, there has been some serious setbacks for the organizations created by the MBA's. One reason of this has been the lack of effective course like legal and ethical issues in the business environment. Peter Navarro and Darlene Carver completed a survey of top fifty business schools<sup>21</sup>. In the article the authors mentioned that their survey showed that only 4% of these top business schools have ethics or corporate social responsibility related course, 50% require IT courses and less than a third require soft skill course like Human Resource, leadership or negotiation.

Business schools are definitely producing tomorrow's global executives but unfortunately the curriculum for the executives lack some very basic courses needed for the human development. The lack of effective courses that would help to develop the moral values and fulfill the corporate social responsibility is only taught in the top 4% of the business schools.

I truly believe based on my research for this paper, should we introduce and strictly enforce courses like ethics, we may have avoided the tragedies like ENRON and WorldCom.

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<sup>21</sup> "Why Johnny Can't Lead" By Peter Navarro and Darlene Carver, HARVARD Business Review, December 2004.