

Inns of Court Hypothetical

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Background:

MegaFrackCorp, based in Pittsburgh, is the world's leader in design and manufacturing of hydraulic fracturing technology for the oil and gas industry. It provides its technology to exploration and production companies and it is widely used worldwide. Mega is on the verge of releasing a new groundbreaking technology called Frack-O-Matic that will take fracking to a new level. The technology is carefully guarded intellectual property. The R&D computer network is highly secure and segmented from Mega's other networks. While there has been some general discussion in the industry about Mega's new technology, details are not yet publicly known.

A great volume of Mega's highly confidential data about Frack-O-Matic has appeared on websites operated by a hacktivist group called TellItAll! The information includes everything about the Frack-O-Matic from early conceptual drawings to final, detailed engineering data. It is now available to Mega's customers, competitors and foreign interests.

Mega's General Counsel has been asked by the CEO to meet with the U.S. Attorney's Office and the FBI to discuss criminal prosecution of the responsible parties.

While the details of how the data was stolen are not yet known, the following are facts that will be discovered during the investigation:

Bob is a clerk in Mega's accounting department. He has some concerns about the effect of fracking on the environment, but likes his job and believes that Mega's senior management is sincere about environmental responsibility. He has a neighbor who is a leader of a militant environmental group – NoFrackingWay! The neighbor has been trying to persuade Bob to join

the group and either quit his job and fight for the environment or to stay at Mega and fight covertly from the inside. He relentlessly keeps telling Bob that Mega has to be stopped before its fracking poisons the water supply and destroys the environment. It does not appear that Bob has joined NoFrackingWay!

Bob is a casual friend of Jane, Mega's Director of R&D. He occasionally stops by the R&D Department to talk with her. One of the R&D engineers keeps forgetting the complex 16-character password that he is required to use, so he keeps it on a yellow sticky note on his computer when he is at work. He puts it in his desk drawer when he leaves the building. On one occasion, Jane saw Bob pointing his iPhone at the engineer's computer. When she asked him what he was doing, he said that he took a picture of the Penguin's bobbleheads that are lined up along the monitor and showed her the picture.

Bob is occasionally given temporary access the R&D Department's network when he needs to access data for audits he works on. Each time he gets access, he is required to sign a form that acknowledges that (1) the data on the network is highly confidential, (2) he is only authorized to access data necessary for the audit, and (3) he is not authorized to copy or download any data.

It is not yet known how TellItAll! got the data, but the following are possibilities, as the facts are developed:

1. Bob used his authorized temporary access to the R&D network to download the data.
2. Bob used the engineer's credentials from the sticky note to connect to the R&D network (either directly or remotely) to download the data.
3. Bob gave the engineer's credentials from the sticky note to NoFrackingWay! or TellItAll! and they used the credentials to access the R&D network and download the data. (Or Bob gave the credentials to one of them who gave it to the other.)
4. NoFrackingWay! or TellItAll! hacked into the R&D network, with no involvement by Bob.