Book Reviews -- Monographic Musings

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**Book Reviews — Monographic Musings**

**Column Editor:** Debbie Vaughn (Reference Librarian, College of Charleston) <vaughnd@cofc.edu>

**Column Editor’s Note:** On the first Monday in September as our country celebrates Labor Day, many of us might be unaware of the historical climate surrounding the first Labor Day festivities. In 1882, numerous citizens stormed the streets of New York City, rallying for a limited work day. Even years after Labor Day became a national holiday, various groups of workers still were forced to toil under unfair and unequal conditions.

**ATG veteran reviewer Phillip Powell** takes a look at inequalities such as this in *A Place at the Table: Struggles for Equality in America*. Happy reading, everyone! — DV

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**A Place at the Table: Struggles for Equality in America.**


Reviewed by Phillip Powell (Reference Librarian, College of Charleston) <powellp@cofc.edu>

Over the last decade or so, numerous books titled *A Place at the Table* have been published. Even though the subject matter varies from one book to the other, they all appear to discuss the need for inclusiveness and diversity in today’s society. As this country wrestles with prejudices, old and new, these books provide a balance to much of the invective one hears in the media. A brief scan of *World Cat* reveals books with this title covering such important issues as abused children, poverty, homelessness, gay rights, women’s rights, and community building.

This particular *Place at the Table* covers a broad range of inequalities occurring throughout... continued on page 76
ers. This tension is particularly exacerbated when a plaintiff sues to prevent not the actual misappropriation of trade secrets but the mere threat that it will occur. [Emphasis in the original; citations omitted] The court found in favor of Pepsico, ruling that:

When we couple the demonstrated inevitability that Redmond would rely on PCNA trade secrets in his new job at Quaker with the district court’s reluctance to believe that Redmond would refrain from disclosing these secrets in his new position (or that Quaker would ensure Redmond did not disclose them), we conclude that the district court correctly decided that Pepsico demonstrated a likelihood of success on its statutory claim of trade secret misappropriation... we also agree with... the likelihood of Redmond’s breach of his confidentiality agreement should he begin working at Quaker.”

This type of non-competition action is very unusual, and generally only applies to executives and managerial employees that are very high in the organizational chart who have been offered jobs at a similar level by a competitor. Most state courts have refused to adopt the inevitable disclosure doctrine for fear that it would restrict economic freedom of action. For example, California rejected the doctrine in the case of Whyte v. Schlage Lock Co. The court in Whyte stated that:

“The chief ill in the covenant not to compete imposed by the inevitable disclosure doctrine is its after-the-fact nature: The covenant is imposed after the employment contract is made and therefore alters the employment relationship without the employee’s consent. The doctrine of inevitable disclosure thus rewriting the employment agreement and such retroactive alterations distort the terms of the employment relationship and upset the balance which courts have attempted to achieve in construing non-compete agreements...” Schlage and Whyte did not agree upon a covenant not to compete. We decline to impose one, however restricted in scope, by adopting the inevitable disclosure doctrine. Lest there be any doubt about our holding, our rejection of the inevitable disclosure doctrine is complete. [Emphasis added] If a covenant not to compete (which would include, for example, a nonsolicitation clause), is part of the employment agreement, the inevitable disclosure doctrine cannot be invoked to supplement the covenant, alter its meaning, or make an otherwise enforceable covenant enforceable.

Once again, the best way to avoid problems would have been with non-disclosure and non-competition agreements in the employment contracts. As the court in the Whyte case so elo-

quently stated, if the employer wanted to avoid competition this should have been in the employment contract.

Another potential penalty for violating trade secrets is found in the Economic Espionage Act (EEA) of 1996. This statute provides for criminal penalties in the event of misappropriation of trade secrets. According to Findlaw, “The EEA punishes intentional stealing, copying or receiving of trade secrets ‘related to or included in a product that is produced or placed in interstate commerce.’”

Violation of the EEA is a pretty big deal, involving both large fines and lengthy prison sentences. If the individual is performing a theft on behalf of a U.S.-based company, he or she may be fined up to $500,000 and receive a prison sentence of up to 10 years. Corporations that are found guilty of industrial espionage may be fined up to $5 million. Performing an act of industrial espionage on behalf of a foreign government or a foreign agent may cause the fines to double and the jail time to increase to 15 years. Section 1831 and 1834 of the EEA also allow for the property and the proceeds to be confiscated by the government and sold.

The EEA was an unprecedented change in the trade secret law. For the first time, criminal penalties were possible for trade secret violations. The EEA has been subject to both praise and criticism from different parties, but either way you should be careful of the provisions of this criminal statute.

Conclusion

Trade secret law is a type of intellectual property that involves keeping information confidential. Because trade secrets are potentially unlimited in duration, many companies use this type of protection rather than patent, trademark, or copyright. Unlike these other forms of intellectual property, the owner never files, and the “secret” has the potential of staying protected for an unlimited period of time.

In order to obtain the status of trade secret, the information must have some economic value that comes from being kept a secret, and the person providing the information must make reasonable efforts to maintain the secret. Reasonable efforts can include keeping the information under lock and key, only providing information to those who “need to know,” and provisions in employment and licensing contracts relating to secrecy. Owners who take these kinds of steps are eligible for both legal remedies (monetary damages) and equitable remedies (injunctions) from the courts. In addition, some types of industrial espionage may be subject to criminal penalties under the Economic Espionage Act (EEA) of 1996.

The law of trade secrets is an important part of intellectual property. For example, without these provisions, the recipe for Coca-Cola would be out in the open and the company would go out of business. Other types of information also have great economic impact, including financial information and chemical formulas. This is why it is important to have trade secret protection, since information often does have economic value, and when it comes to keeping confidences, a wink really is as good as a nod.

Endnotes

2. Findlaw.
4. 18 U.S.C. §§1831 to 1839. According to Findlaw, "The EEA punishes intentional stealing, copying or receiving of trade secrets 'related to or included in a product that is produced or placed in interstate commerce.'" (18 U.S.C. 1832.) Penalties for violations are severe: Individuals may be fined up to $500,000 and corporations up to $5 million. A violator may also be sentenced to prison for up to 10 years. If the theft is performed on behalf of a foreign government or agent, the corporate fines can double and jail time may increase to 15 years. (18 U.S.C. 1831.) In addition, the property used and proceeds derived from the theft can be seized and sold by the government. (18 U.S.C. 1831.)
6. Findlaw.
9. Redmond at 1268.
10. Redmond at 1271.
12. Whyte at 1462-3.

Book Reviews

from page 73

this country’s history. Heterogeneity has been a hallmark of the social fabric of these United States. Reveling in “Give me your tired, your poor... there has been the myth of this country’s openness to those new and different. This volume illustrates in its twelve essays how distorted these beliefs can be. Name the right, the free market, or the government account, and it is most likely covered in these pages. Chapters cover discrimination due to religion, race, labor, gender, disability, and sexual orientation. Note that the readability (the book is catalogued under juvenile literature) does not lighten the message rendered by the various authors. Well-illustrated and well-written, there is little left to the imagination about how various groups experienced discrimination; but also, how they eventually worked in and out of the system to gain equal recognition and rights.

continued on page 80

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Biz of Acq — Book Vendor Evaluation from a Small Academic Library’s Perspective

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Abstract

This paper describes the process of conducting a firm order vendor evaluation at a small academic library in California. As indicated in ALA’s Guide to Performance Evaluation of Library Materials Vendors,1 acquisitions procedures vary widely from library to library, therefore, it is more beneficial to share the process rather than the final results.

Introduction

Due to limited human and material resources, small libraries do not usually have the luxury or feel the need to conduct a thorough vendor evaluation. Instead, the majority of smaller libraries select vendors based on the staff’s subjective impressions and their past experiences with individual vendors. This was how the acquisitions unit at the University of the Pacific Library (Pacific Library) operated for years.

University of the Pacific is a small, predominately undergraduate, independent academic institution located in California’s central valley. Pacific Library has an annual monograph budget of $125,000, and only 1 FTE acquisitions staff member who runs the entire acquisitions operation. Except for a few standing order titles, the majority of Pacific Library acquisitions are firm orders.

Although Pacific Library had vendor agreements with several vendors throughout the years, in order to take advantage of the high discounts, a decision was made by the former Head of Technical Services to use a single vendor for all of its firm orders except some specialized science titles. This single vendor approach worked adequately for many years, and the acquisitions staff maintained an amiable relationship with the vendor’s representative.

In March 2003, after Pacific Library’s migration from a proprietary system to an integrated library system with a more open architecture, the need to re-adjust workflows was very much felt in every unit of the Technical Services Department. Taking advantage of high discounts was no longer the only consideration for the acquisitions unit in selecting a firm order vendor.

The pressure from Pacific Library administration for a more cost-effective and streamlined Technical Services Department added to the urgency in conducting a formal vendor evaluation for its firm order operation.

Planning Process

To accommodate the changing needs and challenges faced by Pacific Library, rather than looking at vendor evaluation from the perspective of “what are we getting from our vendors,” we decided to follow Lynne C. Branche Brown’s advice2 to look at vendor performance proactively, asking, “What do we expect from a vendor?” How do we define our expectations? Brown suggested conducting customer interviews.

For the acquisition unit, the primary customers are the nine reference librarians/bibliographers at Pacific Library. Through interview reference librarians/bibliographers, a detailed evaluation plan emerged. An overall goal, three objectives, and four major criteria to evaluate vendor performance were developed.

The overall goal for the evaluation was to replace the current single vendor approach with a new model that consists of one primary vendor and several supplementary vendors. The decision was based on the fact that, even for a small academic library like Pacific Library, no one vendor is capable of supplying all the materials requested in the most cost-effective fashion. The other benefit of the new multi-vendor approach is to avoid sudden unexpected business failures of vendors.

The assessment plan also identified three objectives. They were 1) To maximize Pacific Library’s purchasing power; 2) To provide better and more timely services to patrons; 3) To investigate vendors’ technological currency.

continued on page 81

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Q & A Copyright from page 79

the same journal issue. It copies only one article and sends the other requests back unfilled, explaining the copyright law to the borrowing library. A borrowing library insists this is incorrect and that if it (the requesting library) is going to pay copyright royalties, and they say they are, then the lending library should copy for them whatever they ask. Which library is correct?

ANSWER: The borrowing library is correct in this instance. Section 108 is written so that a library does not have to pay royalties. If it goes beyond the exemption provided in the statute, then the library should seek permission and pay royalties, if requested. Here, the borrowing library is paying royalties, so the lending library is not limited to one article per issue for the borrowing library. Moreover, the one article restriction applies to an individual user, not a library borrowing for users. It is the borrowing library that is responsible for enforcing the one article per issue for a user or for paying royalties in order to provide more than one article per issue to a single user.

Book Reviews from page 76

The format of each chapter is very appealing. The illustrations—both drawings and photographs—are mostly taken from the time period. If possible, they include representations of the people who made the leap toward equal treatment. There is an immediacy to each story seeing these people and getting a clearer idea of the time in which lived. A good example is the textile mill strike in Lowell, Massachusetts in 1912. Now nearly a hundred years old, the news photos are quite striking and moving. One sees the large demonstrations and parades, but also, there are photos showing children working in the mills themselves. Within each essay are sidebars containing primary documents and other shorter articles further illustrating—perhaps with another example—the inequality described within that particular essay.

Although the book is published by the Oxford University Press, it appears to be more of a project of the Southern Poverty Law Center’s section called Teaching Tolerance. Its purpose is to provide support for school programs teaching a respect for individual differences and giving students an appreciation for diversity. Maria Fleming, compiler and contributor of A Place at the Table, was formerly associated with Teaching Tolerance as a staff writer. Teaching Tolerance is a natural extension of the SPLC’s original mission of racial equality and justice.

This is a good book. It works on many different levels. It is a good read and it teaches some worthwhile truths, all at once. Don’t let the “juvenile” label deter you from reading it and adding it to your collection. Reading and learning about injustice and inequality (and the people who have fought against it) isn’t just for kids. ☀️

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80 Against the Grain / September 2004 <http://www.against-the-grain.com>