Chapter X

Protecting Intellectual Property in IT Layoffs: Legal and Security Issues

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ABSTRACT
Until recently, layoffs were not common among IT workers. The recent “dot com meltdown” has changed this. Because IT workers are knowledge workers, these circumstances combine to create an unusual set of problems for IT managers. Discussed in this chapter is how protection of intellectual property may be affected by layoffs and suggestions are offered for how these problems may be addressed.
INTRODUCTION

For many years, the major human relations (HR) problem facing IT managers was the shortage of qualified workers (Murray, 2000). Events of the past two years have shown that even IT, once thought to be immune, is, in fact, subject to layoffs. The dependence of the modern corporation on information systems services makes layoffs of IT employees particularly sensitive. That the issue is important to IT managers is made clear from the attention in the trade press (Duffy, 2001; Georgia, 2001).

Despite this, little has been written to guide managers faced with IT layoffs. A number of issues are, if not unique to IT, then at least unusually important. IT employees have access to sensitive data and processes: indeed, they are the custodians and authors of those objects. This may place them in positions to reveal information to others that will damage the company or directly sabotage a company’s operations in various ways.

Considered in this chapter are legal, technical, and managerial practices that a company may use to protect itself from such harm. As will be seen, many of the recommended practices require action well in advance of a layoff.

INTELLECTUAL PROPERTY

The most important asset of many companies is their intellectual property (IP). Customer lists, copyrights including computer code, proprietary information such as new products in formation, and trade secrets are all forms of IP that can be used against the company by its competitors. A laid-off employee is a prime source of potential leakage of such information.

When laid off, IT employees who are disgruntled, angry, or merely unaware of their legal obligations can do severe damage to their former employers. Courts have held that an employer is entitled to reasonable protection from such abuse. On the other hand, the courts have also held that an employee must be reasonably free to pursue
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