

E. I. DuPont v. Christopher
U.S. Court of Appeals, 5th circuit 431 F.2d 1012 (1970)
Circuit Judge Goldberg

Facts: An anonymous client hired the Christophers to take aerial photos of the Dupont plant while under construction. The Christophers took photos of the plant and were then delivered to the client. DuPont noticed the plane and identified the pilots/photographers as the Christophers. DuPont claimed the construction plan involved “trade secrets”. DuPont requested the Christophers to identify their client; when the Christophers refused, Dupont filed a suit.

Procedural History: DuPont filed suit against the Christopher’s, claiming that the pictures which uncovered DuPont’s trade secrets were obtained illegally. The Christopher’s responded by filing a motion for lack of jurisdiction, a motion to dismiss for failure to state a claim in which relief can be granted and a motion for summary judgment. DuPont then filed a motion to compel disclosure by Christopher’s of client name.

Issue Presented: Did the trial court err when denying the Christophers 12(b)(6) motion?

Holding: No. Aerial photography was an “improper means” of discovering trade secrets and thus there was a valid claim.

Rule of Law: One who discovers or uses another’s trade secret, without a privilege to do so, is liable if they discovered the secret by improper means, or if their disclosure or use constitutes a breach of confidence reposed in him by the other in disclosing the secret to them.

Reasoning: The Texas Supreme Court concluded that the proper means of obtaining a company’s trade secrets is through inspection and analysis of products produced by said companies. The only way to discover and use a competitor’s process legally is through independent research and reverse engineering. In this case, the Christophers violated these rules by purposefully flying over the top of the plant in order to photograph the plant’s process and therefore used improper means of discovery. Using improper means of discovery subjects those involved to liability apart from the harm to the interest in secret, as stated in the Restatement of Torts. This affirms that the Christophers must disclose the person or agency who hired them.

Conclusion: The decision of the trial court is affirmed, case is remanded for proceedings on its merits.

