

The case of *Stewart v. Hook*, was a case where one Tilden manufactured and sold an opium cure of which he was the inventor and sole owner. Tilden sold to the plaintiffs his interest in the opium cure, including all formulas, recipes, etc., and covenanted not to manufacture any medicine under the name used for the opium cure and not to reveal any secret of manufacture. Later, Tilden, in violation of his covenant and of the plaintiff's rights, sold the formulas to defendants who proceeded to use them in manufacturing an opium cure and selling it under its original name. There was no allegation that the defendants came by their knowledge of the formula in any unfair way or that they committed any fraud or breach of trust of which the plaintiffs could complain. Upon these facts the Georgia court refused to enjoin the defendants. The following language of the court is significant: "The property right in an unpatented preparation, however, is not an unqualified one and is only exclusive until, by publication, it becomes the property of the public. In other words, the discoverer may keep his formula a secret and no one may by fraud or artifice obtain his secret from him. . . . If, however, one honestly and fairly comes into possession of the formula of an unpatented preparation, he has the right to use it and to sell it and equity will not restrain him from so doing."

The cases cited shew the overwhelming weight of authority favouring a negative answer to the query put at the outset. On what proper theory can we support the case? If we treat a trade secret as we would a tangible chattel, we would be forced to say that the purchaser from a thief acquired no title and so a purchaser of a secret process from one who in the course of his confidential employment had virtually stolen the process from his employer, could not hide himself under the cloak of a b. f. p. It might be answered that the employer has entrusted the employee with possession of the secret and so there is no larceny. But did the employee obtain title? Thereby hangs the answer to our query. On the other hand we would be slow to admit that the right of the owner of a trade secret was only