



Intellectual Property Law

Q What steps should my company take to protect its trade secrets?

A A trade secret is information that a company keeps hidden because of its commercial value and the likelihood that competitors would copy it. Almost anything with commercial value can qualify as a trade secret. Misappropriation or wrongful disclosure of a trade secret is a tort in all states and a crime in some.

Trade secret misappropriation and its prevention are important issues for any business. The first step for protecting your company's trade secrets is to conduct an audit to determine what information constitutes a trade secret. Records of money, time, and other resources invested in developing trade secrets should be maintained, and all documents containing information that is not generally known to your competitors should

be marked as CONFIDENTIAL or TRADE SECRET.

Most misappropriations occur when an employee breaches a duty of confidentiality, so your company should educate its employees regarding the importance of trade secrets and require them to sign non-disclosure agreements. You should also ensure that

trade secrets are not available to employees who have no need to use the information in their work. Remember that a court will not give any greater protection to your trade secrets than you do.

Should a misappropriation occur, you should have established personnel and procedures to investigate the matter, and involve your IP counsel if the misappropriation is serious to determine if litigation or other action is necessary.

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