



Virtuoso Legal

Intellectual Property Specialists

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“Intellectual Property lies at the centre of the modern company's economic success or failure”

Lester Thurow : Economist

Trade marks & Brands

Patents & Inventions

Copyright

Designs

Database rights

Data Protection

Licensing and Franchising

Intellectual Property agreements

New Media Agreements such as directors and authors rights

Transactional Intellectual Property

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Regulated by the Solicitors Regulation Authority
SRA number: 466530



Ensure your confidential information is kept confidential

We are approached on a regular basis by businesses which have experienced competitors or employees misusing their confidential information. A recent survey by researchers from Infosecurity Europe highlighted the importance of safeguarding confidential information. The researchers carried out the survey on 600 commuters at London Railway Stations and out of this group, 37% of those questioned stated that they were willing to part with company secrets for the right price.

It is often necessary to disclose confidential information to other companies you are working in conjunction with, such as for manufacturing, research and development or collaboration purposes. However, confidential information can be misused if there is a leak, if it falls into the wrong hands or if the other party is not aware of its confidential nature. This can have disastrous consequences for a business and will effect the success or failure of that business.

It is now more common for businesses to store their secrets and confidential information in digital form on computers, CDs and memory sticks. This adds to the problem as data can easily be downloaded, copied, transferred elsewhere or printed. The result of this can be catastrophic. It is therefore key that businesses put preventative measures in place to eliminate the chances of this happening.

Information used in a business can be divided into the following categories:-

- » Trade secrets
- » Other confidential information
- » Employees' skill and knowledge
- » Public domain information

Some examples of **trade secrets** are manufacturing processes, business plans and methods, customer lists and databases and computer source code. Trade secrets can be just as an important intellectual property asset as copyright, database rights and patents. We advise our clients to have a confidentiality agreement (or non-disclosure agreement) in place if they are

exchanging trade secrets with another party. Such agreements are important as they record the terms under which you exchange secret information and it marks the information as having the necessary "ring of confidence" which you would be required to prove if you were forced to take the matter to Court.

Information which forms part of an **employee's skill and knowledge** and **public domain information** cannot be considered to be confidential. Employees are however under implied duties of confidentiality and should also be under an express duty in their employment contracts to keep confidential information secret. If an employee misuses or discloses trade secrets without permission, employers have several causes of action available to them including breach of contract, post-termination restrictive covenants, breach of confidence and database right infringement. The remedies available are injunctions, search orders, delivery up and damages or account of profits.