



PROTECTING TRADE SECRETS

Welcome to another edition of Protecting Your Creativity by The Livingston Firm. Each edition of Protecting Your Creativity will discuss various aspects of intellectual property law and related business matters. This edition discusses how to protect your business' trade secrets from the competition.

Difficult economic times results in highly aggressive competition among businesses. Many businesses, even those that have been around for decades, are either going out of business or struggling to survive. In such an economic climate, business owners must be even more vigilant about protecting trade secrets and their employees from being poached by competing businesses trying to get ahead.

Most successful businesses owners are vigilant about protecting their businesses' intellectual property by obtaining patents, trademarks and copyrights. But what about a businesses' trade secrets? What about its customers, clients and key employees? Is the business protected against the theft of these valuable assets as well?

A trade secret is defined as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. A trade secret can be as straightforward as a client list or pricing information, or as complex as system control methods or process technology for manufacturing products. In either case, these items are valuable to your business and worthy of protection. Thus, reasonable efforts must be made to maintain the secrecy of the trade secret.

Just as valuable or even more valuable to a business as its trade secrets are its employees, especially its key employees. The value of these employees lies not only in what they bring to your business but also in what they can take away from it, a fact that is not lost on the competition. Although indentured servitude is not a concept that has been embraced by this country, there are other ways to protect your business from former employees seeking to not only compete against you, but to use your trade secrets to do so.

Protecting your business from the theft of its trade secrets and the unfair competition of its former employees is more crucial today than ever to the survival of your business. Having the proper protocols in effect is necessary to the protection of trade secrets and

essential to a theft of trade secret claim. In addition to ensuring the proper procedures are in place to maintain the secrecy of your trade secrets, having signed employment agreements which specifically address ownership and assignment of intellectual property, including trade secrets and non-competition, will go a long way to ensuring the long-term success of your business.

CONCLUSION

Advising a business owner on the proper methods for protecting its trade secrets and preparing employment agreements which protect a businesses' trade secrets and which contain the appropriate and allowable restraints on competition, is a service that should be performed by attorneys who understand the value of these assets and the laws in place that offer protection for these assets.

The Livingston Firm specializes in all areas of intellectual property law including patents, trademarks, copyrights, trade secrets, franchising, litigation and business law. As the largest full-service intellectual property law firm in Southwest Florida with over forty years of combined experience, The Livingston Firm can be there to assist you from beginning to end with protecting your ideas and inventions and getting those ideas and inventions to market.

Thank you for taking the time to read this edition of Protecting Your Creativity. If you are in need of our services then please contact us to schedule an appointment.

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