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Practice Areas

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Ask The Expert - Mass High Tech

How can companies protect their trade secrets and confidential information from misuse and unauthorized disclosure by departing employees, vendors and business partners?

Thursday, March 31, 2005

Courts and juries expect employers to take "reasonable," consistent steps to apprise employees, vendors and business partners with whom they share information that they expect that information will be kept confidential; the company considers the information to be its property and a trade secret; and the company believes the information is important and cannot be shared with or disclosed to anyone outside the company. One court has described the task of maintaining secrecy as the exercise of "eternal vigilance" so that employees are "constantly admonished" that information is, and must remain, secret.

This involves requiring new employees, as a prerequisite of employment, to sign a non-disclosure agreement at a minimum, or a non-disclosure and non-solicitation agreement; visitors, vendors and potential licensees, partners and buyers to sign non-disclosure agreements; a written "Trade Secret and Confidential Information Policy" as part of the company's handbook; and a practice and policy of stamping documents "confidential." There is much a company and its counsel can do to ensure that disclosures will be limited.