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BY PAUL PETER JESEP | Matthew J. Lapointe, Esq. has been offering clients at the Manchester based Sheehan, Phinney Bass and Green expert legal advice since 1991. He represents emerging companies in the software, nanotechnology and healthcare fields, as well as more traditional business clients. He advises clients on formation, financing, succession planning and general business and regulatory matters. Recently, he shared his thoughts about the high tech industry.

What should concern a start up high tech firm the most?

Ensuring that its intellectual property is adequately protected through a trade secret and confidential information policy. This would include, but by no means should be limited to, appropriate confidentiality and non-disclosure agreements with employees, business partners and, in some cases, vendors.

Are there different approaches you take in advising a high tech firm depending on their area of service or products?

From a legal perspective, the area of service or type of product may make a difference in the steps that a company takes to protect its intellectual property. Also, the company's liability exposure may differ drastically depending upon the product or service provided. If the company has a high level of risk for product liability, then the company will want its license agreements or its terms and conditions of sale to adequately protect against that risk.

Is there a benefit to starting a business in New Hampshire over other New England states? Do tax and work compensation laws work to the benefit of a small or mid-size business here?

In general, New Hampshire is seen as a business-friendly state. The state government is extremely user-friendly and business regulations are few and easy to navigate. The absence of a personal income tax means that entrepreneurs can keep much more of what they earn in New Hampshire versus states with an income tax.

In your experience, what are the biggest mistakes that a high tech start up makes?

Failing to adequately protect its intellectual property is the biggest mistake. But in general, I have found that entrepreneurs are so focused on their technology or their product that they don't fully appreciate the need to adequately document very important matters. For example, all loans from the principal(s) to the company must be documented, there should be written agreements among multiple principals concerning roles and responsibilities, and there should always be a written shareholder agreement or buy/sell agreement to protect the venture from the death or disability of a founder. I think also there is sometimes a tendency for entrepreneurs to raise money for the enterprise by selling equity to friends and family and they often sell too much at too low a price.

Are there success stories that you've seen that would benefit someone thinking about starting a high tech firm?

Certainly. I currently represent a printed circuit board design firm that was formed in 2001 by a guy who had just moved to New Hampshire from central Florida, where he had worked for Motorola. He had some contacts in the industry and was (and is) a very talented pcb designer. His company has had positive cash flow every year since its founding and has seen its gross income grow from \$ 300k that first year to \$1.2m for the year just ended. He made some mistakes along the way, but he has learned from them and has continued to plug along, steadily building his company and its reputation in the industry.

Anything you would like to add that would benefit a would-be entrepreneur.

Get a good lawyer and use your lawyer well. By "use your lawyer well" I mean keep him or her in the loop so that your lawyer can spot problems before you get too far along. A good lawyer should also be someone who is not only a good legal technician but who understands your business and has good "business sense." Finally, there are plenty of talented business lawyers in New Hampshire and Maine whose rates are significantly lower than those charged by the big Boston firms. For example, our firm has a Boston office and many of our lawyers regularly practice in Massachusetts at rates that are highly competitive.