



OESA Legal Corner: Keeping Your Company's Trade Secrets from Becoming "Road Kill" on the Information Superhighway

Michael J. Lockerby, Foley & Lardner LLP

Theft of trade secrets by foreign competitors has received a great deal of attention recently. For most suppliers to the auto industry, however, the greatest threats may be homegrown.

In the age of the Internet, it may take only a few "clicks" for a departing employee or an unscrupulous business partner to download, print and/or e-mail the company's most valuable confidential information. Especially when litigation results, computer forensic experts are often called into reconstruct what happened. Such experts can determine whether confidential files were accessed, downloaded, printed or emailed, and they may well be able to recover evidence that the wrongdoer tried to delete to "cover his tracks."

But why wait until litigation when the costs and risks are obviously much greater? In the ordinary course of business, companies can and should monitor all access to, printing of, and sharing of confidential information (assuming that appropriate disclosures to employees have been made). By "cloning" the computer hard drives of departing employees, the company has a permanent record that could prove invaluable in case of a subsequent dispute.

Another best practice is to conduct exit interviews with departing employees. The interview should end with a request for a signed statement of compliance with the company's confidentiality policy. This should be followed up with forensic verification that the statement is true.

If forensic examination suggests wrongdoing, the company has the evidence it needs to seek and hopefully obtain preliminary injunctive relief immediately, otherwise its trade secrets may be lost forever.

For additional information, contact Michael (Mike) J. Lockerby at 202.945.6079 or mlockerby@foley.com.

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