

## CAPABILITIES / LITIGATION

# Trade Secrets

We protect and, if necessary, enforce the confidentiality of proprietary information by both counseling clients on proactive strategies to prevent data loss/theft as well as enforcing the law and agreements during and after employees' offboarding. We also represent individuals who switch companies, to help avoid unnecessary accusations and lawsuits.

## OVERVIEW

*"An employee's possible theft of trade secrets triggers strong emotions surrounding the potential loss of valuable information, time and resources. We help our clients evaluate the legal issues, the available remedies, and the risk-reward equation that allows the client to determine the best course of action."*

— Mathieu J. Shapiro

With technology, globalization and an increasingly flexible, mobile workforce, information has become easily accessible. Understanding the legal, as well as technical, steps needed to secure Intellectual property, trade secrets, and other valuable materials is more important than ever. Our team is exceptionally conversant with information technology, can identify your protectable information and counsel you on how best to protect it. We will respond quickly, effectively and efficiently when action is necessary.

Although the most common scenario is a key employee departing for a competitor, there are many other scenarios in which a business's information is potentially vulnerable. We help clients identify proprietary information and develop methodologies and procedures to keep it secure. We also counsel clients on information-related issues during transactions and hiring. Finally, when individuals leave and information threats are immediate and imminent, we utilize temporary restraining orders and preliminary injunctions, and if necessary, implement efficient and creative litigation strategies to achieve successful outcomes.

Our Trade Secrets team brings to their work exceptional hands-on knowledge of the law of restrictive covenants and the law of trade secrets across the states, along with proficiency in applicable statutes, including the Computer Fraud and Abuse Act, the Defend Trade Secrets Act, the Uniform Trade Secret Act, as well as other state business tort and theft of trade secrets statutes.

## **OUR VALUE**

The old saying that “an ounce of prevention is worth a pound of cure” is particularly applicable to trade secrets. Our ideal outcomes are anti-climactic: through identification of proprietary information, implementation of training, auditing and corrections to existing policies, developing new protocols, and drafting (or refining) non-competition, non-solicitation, non-recruitment, and non-disclosure agreements, we prevent the loss of information. For individual clients, we help avoid issues relating to this information when they switch jobs.

Should a situation arise in which a potential loss of sensitive information occurs we seek to minimize the scope of the breach using litigation and a rapid, aggressive and sophisticated response. Whether we are proactively preventing the loss of trade secrets, or working to minimize its scope, the objective remains the same: managing critical information, so our clients can focus on managing their business.

## **OUR CLIENTS**

We regularly represent companies in sectors involving critical information, often in technology, manufacturing and finance, and senior executives employed by these enterprises. Because trade secrets exist at the intersection of technology, strategy and the law, we frequently operate in interdisciplinary groups, including lawyers with expertise in IP, employment, corporate law and litigation.

## **OUR FOCUS**

Our team focuses on bringing clarity and decisiveness to issues which are often complex, dynamic and high-stakes. It is often not obvious whether information is legitimately proprietary, and in each circumstance, what the optimal approach should be. We strive to ensure our clients have a clear understanding of the steps they can take to appropriately manage information, and the legal benefits and drawbacks of each approach. While the client makes the ultimate decisions, we see our role as ensuring these decisions are informed, and that any action taken is as cost-effective, efficient and strategic as possible.

## **EXPERIENCE**

- In a case in the energy sector, we represented a company from whom several defectors took business contacts and opportunities, pricing models, and trade secrets, and formed a new, competing company, in violation of explicit non-

- competition provisions. We sued – but did not seek injunctive relief. Rather, we obtained a multi-million-dollar settlement, including advising the client not to settle when they were prepared to. The client obtained over seven figures of an additional settlement award, as a result of our strategy;
- In a case where a salesman who used trade secrets and had access to key pricing strategies and customers was sued by his former employer, we were retained by his new employer to represent him. We counseled him through negotiations and litigation, and ultimately achieved a settlement through an agreed-upon Order that allowed the salesman to do everything his new employer needed him to be able to do in his new role;  
In a case involving defection and theft of a highly technical, top-secret, chemical formula, we sued a foreign company and its domestic subsidiary, along with the defecting individuals, and obtained eight figures in compensation for our clients; and
- In a case involving theft of intellectual property, we obtained injunctive relief, and an extremely lucrative licensing agreement for the defendant's prospective use of our client's manufacturing process and formulae.

ATTORNEYS

Key Contacts

Mathieu J. Shapiro

MANAGING PARTNER  
215.665.3014  
mathieu.shapiro@obermayer.com

Melissa M. Blanco

ASSOCIATE  
215.665.3097  
melissa.blanco@obermayer.com

Andrew J. Horowitz

PARTNER  
412.288.2461  
Andrew.Horowitz@obermayer.com

Brett Wiltsey

PARTNER  
856.857.1435  
brett.wiltsey@obermayer.com

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