

Noncompetition and Trade Secrets

Significant liability can arise when top employees move between competitive firms with trade secret and proprietary information that is critical to a company's success. The risks of unfair competition have also become commonplace following the sale of a business or when partnering with other companies. Wiley's Employment & Labor Practice regularly advises and litigates on behalf of clients on unfair competition and the protection of trade secrets. Our success is based on our ability to formulate comprehensive strategies to minimize risk and quickly resolve a broad range of unfair competition and trade secrets disputes. We also draw on cross-disciplinary expertise to identify the risks our clients face, address their unique business needs, and proactively protect their interests. While our team prides itself on our ability to resolve matters before they proceed to litigation, we also have a long track record of courtroom successes in both state and federal court. Our litigation matters frequently include bet-the-company issues for clients needing to protect their intellectual capital or mitigate damage. We frequently represent companies and executives who seek to enforce or invalidate nondisclosure and noncompetition agreements in expedited preliminary injunction and temporary restraining order actions.

Outside of the litigation context, many of our clients require creative solutions to guard against misuse and theft of trade secrets and other proprietary information. The challenges associated with protecting trade secrets have grown in recent years with the increase in remote work, phishing and security attacks, and increased reliance on technology. Our team prides itself on working with clients to develop legally sound and proactive policies, programs, and procedures that protect their intellectual property and strive to enhance employee longevity and loyalty.

Our capabilities include:

- Drafting, negotiating, and enforcing employment restrictive covenants and confidentiality agreements
- Development of policies and procedures to protect trade secrets and other intellectual property
- Strategy and development of employment on-boarding practices to safeguard intellectual property
- Workforce stability and loyalty programs

Our recent representative experience includes:

- Representing a nonprofit think tank in a dispute over an ex-employee's breach of a confidentiality agreement and theft of trade secrets in the Eastern District of Pennsylvania.

- Won all 13 counts for a government contractor in litigation over teaming agreement, employee noncompetes, and theft of trade secrets in Virginia state court.
- Represented a data audit and software company in misappropriation of trade secrets and breach of contract lawsuit in Maryland federal district court against a former employee who worked on the company's highly proprietary software and then left to work for a key client of the company.
- Secured a temporary restraining order in Virginia federal district court against a former employee to protect our client's unique proprietary training methods and trade secrets.
- Represented a software development company in trade secret and unfair competition jury trial against a former business partner that returned a favorable jury verdict.
- Successfully negotiated a comprehensive resolution of claims with current and former employers regarding theft of confidential and proprietary information, and violation of noncompete and nondisclosure agreements.