Insights: Alerts

Top Takeaways: 3 “Secrets of Trade Secrets”

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Kilpatrick Townsend partners **Lou Barbieri**, **Josh Ganz**, and **John Jett** recently presented to a group of entrepreneurs at the Atlanta Tech Village on the “Secrets of Trade Secrets.”

Here are three key takeaways from the presentation:

Trade Secrets Are Often Your Most Valuable Asset

Lou Barbieri, who advises private equity funds and technology companies in equity and other strategic corporate transactions, emphasized the importance of clearly identifying, protecting, and being able to articulate what trade secrets a business owns to maximize equity and commercial value. Trade secrets include customer lists, market strategies, proprietary algorithms, and certain other confidential information that has competitive value.

Without Reasonable Protection Trade Secrets Are Lost

Josh Ganz, who regularly advises client on technology development and licensing transactions, emphasized the importance of using non-disclosure agreements (“NDA”) and other reasonable efforts to protect trade secrets, which (if maintained secret) have a perpetual term. NDAs should always be signed prior to disclosing a trade secret (or other confidential information) to a third party.

New DTSA Federal Law Should Be Your Tool

John Jett, who litigates technology disputes, explained some of the features of the new federal trade secrets law – the Defend Trade Secrets Act of 2016 (“DTSA”). Among other things, the DTSA allows a trade secret owner to go to court on an ex parte basis to protect its trade secrets. The DTSA also provides for robust damages and attorneys’ fees. The new law is a powerful tool to protect trade secrets, which are today the lifeblood of many technology companies.

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