

## Avoiding Trade-Secret Allegations During a Founder Transition

There comes a point when even the most dedicated founder is ready for a change. You may be excited to take your hard-earned experience to a different company, start a new venture, or simply take time off to plan your next step. But while you're thinking about what's next, your company may be thinking about what could walk out the door with you.

Recently, there has been a noticeable uptick in trade-secret allegations aimed at departing founders and other key employees. High-profile disputes have made leadership teams particularly sensitive to the loss of hard-won know-how. At the same time, tighter limits on non-competes have removed a tool companies once used to manage post-employment risk. Aggressive IP threats have become a backstop for companies worried about their confidential information.

How can you avoid an IP dust-up? Expect and prepare for scrutiny—even if you're not joining a competitor or you haven't chosen your next move. Understand that your company may analyze your recent document access, image your devices, interview colleagues, probe your future plans, and ask you to certify compliance with policies. In rare cases, they may even contact your new company or reach out to authorities. A little advance planning and disciplined information hygiene—guided by your attorney—can dramatically reduce your risk and help you make a clean break while protecting your reputation and your next venture.

### Practical Steps to Reduce Risk

Before making any moves:

- *Review your agreements.* Before you give notice or discuss your plans, have your counsel review your confidentiality, IP assignment, non-solicitation, and any other restrictive covenants. These obligations can be broader—or narrower—than you remember, and nuances matter.
- *Access only what you need to finish your job.* In your final weeks, limit yourself to accessing the information necessary to complete your remaining responsibilities. Skip the “last look” at business plans, technical docs, code repositories, or customer data; they can become red flags in later audits. Do not email files to personal accounts, upload to personal cloud storage, transfer to external drives, or take paper copies home. A clean digital footprint is key to resolving disputes early.
- *Be careful what you share—and with whom.* It can be tempting to share details about your plans and your decision to move on. The prudent approach is to hold back. Companies routinely interview colleagues and even external contacts to assess the risk. Assume anything you say could be relayed to the company's outside counsel.
- *Keep your own records.* Track what you return and when—devices and documents. Keep copies of your agreements. Note the scope of your final duties and system access. If questions arise later, contemporaneous notes are invaluable.

- *Communicate boundaries to your next venture.* When appropriate, tell your new team about your confidentiality obligations. Where feasible, avoid immediately stepping into roles that mirror your most sensitive former responsibilities.

## Why Having Your Own Counsel Matters

Your interests as a founder do not always align with the company's—whether it's your current company or your next one. Company counsel represents the company and its stockholders, not you. Your own lawyer can interpret your obligations, calibrate your communications, set boundaries with both companies, and help address issues early, before they escalate. A brief, early consultation is often the cheapest, fastest way to avoid a lengthy dispute later.

Patterson Belknap has a multi-disciplinary team of lawyers who are focused on the legal needs of founders and entrepreneurs. A description of the full range of our services and attorney contacts can be found [here](#). Please visit the [Founder Focus Resource Center](#) for more content on a broad range of topics of interest to founders and their professional advisors.

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<a href="#">Michael S. Arlein</a>	212.336.2588	<a href="mailto:msarlein@pbwt.com">msarlein@pbwt.com</a>	Estate Planning
<a href="#">Edward H. Smoot</a>	212.336.2168	<a href="mailto:ehsmoot@pbwt.com">ehsmoot@pbwt.com</a>	Corporate/Employment
<a href="#">Douglas L. Tang</a>	212.336.2844	<a href="mailto:dtang@pbwt.com">dtang@pbwt.com</a>	Corporate/Employment
<a href="#">Kathryn Bi</a>	212.336.2320	<a href="mailto:kbi@pbwt.com">kbi@pbwt.com</a>	Disputes
<a href="#">Robin Krause</a>	212.336.2125	<a href="mailto:rkrause@pbwt.com">rkrause@pbwt.com</a>	Philanthropy
<a href="#">Justin Zaremby</a>	212.336.2194	<a href="mailto:jszaremby@pbwt.com">jszaremby@pbwt.com</a>	Philanthropy
<a href="#">Dahlia Doumar</a>	212.336.2988	<a href="mailto:dbdoumar@pbwt.com">dbdoumar@pbwt.com</a>	Tax
<a href="#">Irene Kim</a>	212.336.2195	<a href="mailto:ikim@pbwt.com">ikim@pbwt.com</a>	Tax

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