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### **Trade Secrets**

By Gary Oberst

Trade secrets consist of technical know-how a business develops or acquires that provides a competitive advantage. Computer software fits well within that definition, as do client lists, marketing plans, systems specifications, and sales figures. The law protects against misappropriation so long as the information is kept secret.

The owner establishes and maintains a trade secret by divulging it only to those with a need to know it and, simultaneously, communicating that it is a trade secret. The owner is then protected from unauthorized use or disclosure by those with authorized access, as well as by those who gain access improperly.

Trade secrets can be difficult to establish and expensive to maintain.

Relevant factors that the courts consider in determining if trade secrecy protection applies are:

- the extent to which the information is known outside of the business
- the extent to which the information is known by people involved in the business
- the measures taken to guard the information
- the value of the information to the owner
- the value of the information to competitors
- the effort or money expended to acquire the information
- the ease or difficulty of lawfully duplicating the information

Owners of valuable software should consider augmenting copyright protection by treating their software as a trade secret. Copyrighting software protects against copying the specific code. Trade secret protection is broader, protecting program logic, file structures and system design.

Your attorney can explain trade secrets in more detail and assist you in establishing effective protection.

Copyright 1991 by Gary Oberst. All rights reserved. Mr. Oberst is an attorney in Norwalk, Conn. Concentrating in computer law. He is an associate member of ICCA F/W.