

Confidentiality

Employed engineers must keep privileged information about their companies and their clients confidential.

Confidential Information is information deemed desirable to keep secret. Engineers and other employees are usually expected to withhold information labeled "confidential" from unauthorized people both inside and outside the organization. Confidential information is any information that the employer or client would like to have kept secret in order to compete effectively against business rivals.

Proprietary Information is information that a company owns or is the proprietor of.

A *Trade Secret* can be virtually any type of information that has not become public and which an employer has taken steps to keep secret. Trade secrets are protected by common-law.

Patents legally protect specific products from being manufactured and sold by competitors without the expressed permission of the patent holder. Trade secrets have no such protection. Patents give the patent holder the reward of a legally protected monopoly. By contrast, the legal protection accorded trade secrets is limited to upholding relationships of confidentiality and trust.

Justification and Limits

Why are employers allowed to determine what information is treated as confidential?
What are the moral limits or restrictions on the confidentiality obligations of employees?

To respect the autonomy (freedom, self-determination) of individuals and corporations is to recognize their legitimate control over some private information concerning themselves.

The economic benefits of competitiveness within a free market are promoted when companies can maintain some degree of confidentiality concerning their products.

Employers have some moral and institutional rights to decide what information about their organizations can be released publicly. They acquire these rights as part of their charge to protect the interests of their organizations and investors. Different ethical theories will justify the rights differently and will also differ in the limits they place on them.

Rights ethicists justify employee's confidentiality obligation by appealing to basic human rights.

Duty ethicists will emphasize the general duties not to abuse the property of others.

Rule-utilitarians will view rules governing confidentiality as justified to the extent that such rules produce the most good for the greatest number of people.

Changing jobs

The obligation to protect confidential information does not cease when employees change jobs.

The relationship of trust between employer and employee in regard to confidentiality continues beyond the formal period of employment. Unless the employer gives consent, former employees are barred indefinitely from revealing trade secrets.

Donald Wohlgemuth vs. B.F. Goodrich

It is virtually inevitable that some unintended "leaks" of trade secrets will occur when engineers exercise their general skills and knowledge. An engineer's knowledge base generates an intuitive sense of what designs will or will not work, and trade secrets form part of their knowledge base. To fully protect the secrets of an old employer on a new job would thus virtually require that part of the engineer's brain be removed.

The courts decided that while Goodrich had a right to have trade secrets kept confidential, it had to be balanced against Wohlgemuth's personal right to seek career advancement. And this would seem to be a correct moral verdict as well.

Management Policies

One approach to the protection of trade secrets is to use employment contracts that place special restrictions on future employment. The courts have tended not to recognize such contracts as binding, although they do uphold contractual agreements forbidding disclosure of trade secrets.

One potential solution is for employers to help generate a sense of professional responsibility among their staff that reaches beyond merely obeying the directives of current employers. Engineers can then develop a real sensitivity to the moral conflicts they may be exposed to by making certain job changes. They can arrive at a greater appreciation of why trade secrets are important in a competitive system and learn to take the steps necessary to protect them. In this way professional concerns and employee loyalty can become intertwined and reinforce each other.