

Telework and protecting intellectual property

This week, millions of new teleworkers will fire up their laptops and log into their employer's intranet, trying to do work while under orders to stay home. This is the new normal for what's anticipated to be weeks - if not months. As you scramble to adjust and keep working, don't forget about protecting your intellectual property. The fact is, having employees suddenly work from home can mean real vulnerability for your trade secrets and other invaluable information. Here's how to address those concerns:

Contact counsel

Yes, this should be your very first step. Make sure he or she is keeping you updated on all the latest changes. Ask if your existing intellectual property and trade secret agreements are up-to-date or if there are recommended changes now that your workforce has started or is preparing to telework.

Telework agreement

Ideally, you should already have a telework agreement in place. This should include an intellectual property and trade secrets provision. Because the telework arrangement is designed as a temporary measure under the current pandemic medical emergency, your existing agreement will need to be modified, if you have one. But if you haven't had teleworkers in the past or if this represents a significant increase, you should create a new one or modify an existing one. Get that done as soon as possible. It should include at least the following basic terms:

- A statement that telework is being offered as an alternative to possible layoffs due to forced closure or as your company's voluntary effort to contain the coronavirus currently circulating and that there are no promises that telework will continue.
- A reminder for hourly employees that teleworkers are expected to adhere to core business hours and that childcare cannot interfere with that work. For exempt employees, you can provide more flexibility if operational needs allow.
- A robust statement on intellectual property, including a reminder of any previous trade secret or noncompete agreements the employee has signed in the past. Ideally, include a copy with the telework agreement.
- An agreement on supplies and equipment that spells out who is providing computers, printers and other equipment as well as a formula for reimbursing the employee for internet access attributed to telework. This should include designating a specific workspace for telework, if possible. (This may be difficult on an emergency basis).

IT security

Work with your Information Technology (IT) staff to assure that the teleworker's access point to company IT resources is secure. Likely they will set up a Virtual Private Network (VPN) for access or have already done so. Your VPN should protect the teleworker's equipment from access by nefarious characters (hackers and competitors, for example), your data in transit from and to the teleworker and your network from unauthorized access. If you have not used teleworkers before, get IT to secure your system ASAP.

Access

Once you have secured network access and are confident that the telework connection is as secure as reasonably possible, you must take one additional step. Insist that the telework secure the telework area from outside access. That is, explain that the designated telework area is off limits to family member and visitors. Teleworkers must turn off computers and other Internet-connected devices when not in use, including during scheduled breaks, before work and after. If possible, the telework area should be locked when not in use. Written materials (i.e product lists, customer lists, copies of contracts and any other intellectual property) must also be secured.

Final note

The biggest telework employer in the United States is the federal government. It maintains extensive information on telework for its workers, which is accessible to everyone. The [guidance](#) includes links to specific ways to secure networks for telework that may be helpful for your IT staff. (631)