



## Accused of Taking Confidential Information? Five Immediate Steps That Can Limit Risk for Israeli Companies

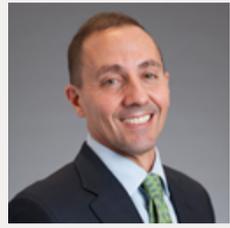
For Israeli companies, disputes over trade secrets and confidential information are commonplace. Often arising after a business hires an employee from a competitor, a proposed acquisition falls through, or information is leaked through overseas operations, these cases expose companies to large financial damages, crippling injunctions and even criminal prosecution.

A swift but carefully managed response is critical to managing those risks. An immediate internal investigation can help management take decisive action that may head off civil or criminal litigation. Even if a lawsuit ensues, quick action can help contain contamination and limit liability.

An Israeli company accused of improperly acquiring or misusing confidential information should consider the following steps to minimize potential harm:

- 1. Investigate immediately.** Initiate an effective, independent internal investigation quickly to gather facts and identify the scope of the risk. Seeking assistance from a legal team that is experienced in conducting rapid investigations ensures that management understands key information, lays the foundation for credible interactions with a civil adversary or the government, and allows the company to formulate remedial actions if necessary. It is important not to rely solely on information reported up through the normal chain of command, which can present a distorted or incomplete picture to corporate decision makers.
- 2. Take caution with cross-border investigation issues.** Immediate investigation is often most important when the alleged misconduct took place overseas or requires cross-border investigation. The rules governing investigations vary greatly between different countries. Missteps may preclude the company from access to needed information even from its own employees, or risk destroying legal privilege. In some countries, for example, communications with in-house lawyers are not privileged and recognize attorney-client privilege may not be recognized. The investigation team should be well-versed in local rules and practices, and it should be prepared with strategies to overcome cross-border impediments.
- 3. Preserve electronic evidence.** From the very outset, take steps to prevent the destruction of electronic evidence, including transient metadata and other evidence that may be lost during routine business operations. Independent investigators should collaborate with a technical team capable of freezing electronic records and be able to work closely with in-house IT staff, who often can implement retention measures on the back end without alerting potential witnesses.
- 4. Quarantine disputed information.** As a corollary, immediately isolate and prevent the further dissemination of disputed information within the company. For example, information obtained under a disputed nondisclosure agreement or brought to the company by a new employee should be identified and removed from servers or other sources from which others might access it and spread it further.
- 5. Develop a plan for responding to accusers or government authorities.** Speedy investigation may help the company head off litigation or government investigation. An independent legal team can help present the facts and proposed remediation to government regulators with the credibility necessary to limit further investigation or to negotiate with civil adversaries before a lawsuit is filed. If litigation becomes necessary, taking these early actions can also help narrow the scope of the dispute and minimize the risks to the company. Extra care is necessary when both civil and criminal liability are threatened, and removing the threat of one can help resolve the other on more favorable terms.

## Kobre & Kim's Intellectual Property & Technology Litigation Contacts



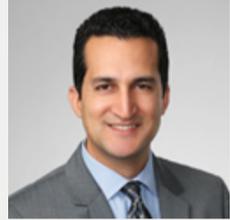
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Our Intellectual Property & Technology Litigation team understands the complex technologies that are often at the center of these types of disputes, and seamlessly works alongside our Government Enforcement Defense team, which includes former U.S. government lawyers who have served as U.S. Department of Justice prosecutors and U.S. Securities and Exchange Commission enforcement lawyers, on related matters involving investigations and litigation. Our global reach and experience allow us to effectively represent companies involved in multijurisdictional disputes. With locally qualified lawyers in the Americas, Europe, the Middle East, Asia and offshore locations, and an integrated team of professionals who have native capabilities in more than a dozen languages, we provide strategic solutions to those facing the challenges of coordinated international litigation.

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