

Protecting Advancements: Critical for Next-Generation Manufacturers

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Manufacturing continues to grow in the United States, fueled primarily by innovations in technology, human capital and advances in the manufacturing process itself. With the advent of new technologies, particularly technologies that provide an advantage over the competition, next-generation manufacturers must zealously protect their intellectual property and assets associated with such manufacturing technologies.

Next-generation manufacturers are particularly vulnerable when supplying other manufacturers who purchase their goods. If the buyer has the right to inspect the seller's manufacturing technologies or otherwise has access to the seller's manufacturing processes, innovative technologies and proprietary advancements, the rights to protect such intellectual assets may be compromised.

Manufacturing processes, although patentable, should also, or may better, be protected as trade secrets. This is because the process of filing a patent requires disclosing to the world the very secret that necessitates protection. The ephemeral protections of patents (generally 20 years of protection) have led to the protection of manufacturing processes as trade secrets, which ultimately last as long as the confidentiality of such processes can be maintained.



Many manufacturers selling goods may not be aware that their manufacturing processes are being copied. For example, a widget manufacturer, who produces widgets that look identical to a competitor's, is unlikely to discern whether a competitor has utilized the manufacturer's proprietary techniques by simply looking at the finished product. Thus, the importance of protecting manufacturing secrets cannot be overemphasized.

Next-generation manufacturers should reassess whether their agreements adequately protect information and observations that become available to its customers or suppliers. One effective tool to protect technological innovations and manufacturing investments is to enter into nondisclosure agreements.

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