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Bloomberg Law Quotes Locke Lord's Jorden Rutledge on Intricacies of Protecting Trade Secrets Amid Rise of Generative AI

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Chicago lawyer [Jorden Rutledge](#), a member of Locke Lord's Business Litigation and Dispute Resolution Practice Group, was quoted discussing the nuances of protecting trade secrets as the use of generative AI increases. Following a Texas federal judge's order suspending enforcement of the noncompete ban, companies leveraging AI have turned to trade secret law to protect their proprietary AI systems. Rutledge explains that during this time, tailored employment agreements that explicitly define trade secrets, particularly as companies navigate AI tools and the security implications of remote and hybrid work, are more important than ever. "With the rise of generative AI, the scope of what constitutes a 'trade secret' is likely expanding," he adds.

While some seek to lean on trade secret law, others hope patents or copyright protections may inhibit the sharing of proprietary information. Still, that strategy has its own hurdles as Rutledge notes: "Moreover, trade secrets law doesn't require 'human authorship' like patents or for the information to be 'novel' or have a 'creative spark' like copyright."

He goes on to explain that although trade secret protections may present a temporary remedy to AI's patentability problem, he anticipates it will face its own challenges. "We can expect companies who are claiming trade secret protections to have their opponents argue 'no, this can't be a trade secret, it is from AI.'" That could result in "a protracted battle and discovery concerning how a company utilizes AI in their workflow, and how they used it in this specific instance," Rutledge further notes.

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