Confidentiality Matters in Business

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, and my colleague Russell Berger, both attorneys at Offit Kurman. And today we are talking about something that is a hot topic in the news, which is all of the, I'll call it drama, going on with the Nvidia CEO and some issues that resulted from information that he potentially shared with a foreign agent inadvertently in some ways, I guess.

It brings up the topic, Russell, I think around that obviously a lot of employees at companies have very sensitive, access to very sensitive information, confidential information, trade secret information. We've talked about some of that on here as it relates to, making sure you have good agreements in place and to protect you from disclosures.

But this is a good example where even someone who is at the top of an organization [00:01:00] created some risk for a company as it relates to the information that they know and in a, careless manner, I guess we can put it. So what are some things that people should be thinking about, companies should be thinking about when they're seeing these headlines other than some of the dramatic elements of this situation?

Russell Berger: Yeah. We have plenty of clients here in Maryland that do government contracting. We probably don't have too many clients that like, foreign governments are interested in getting their secrets. So that part of it is probably a little bit less applicable to our regular audience here.

But I do think that the main point about maybe your competitors would like to get that information and, it doesn't necessarily have to be the spy games of it all. It's just protecting your information is the main takeaway and be careful about who you share information with.

Obviously protecting your information, the cybersecurity of it all, plus the management of your employees. Do you have them on confidentiality agreements? Do you have non-disclosure agreements? Do you protect your key corporate secrets so that [00:02:00] they're, actually, meet the definition of a trade secret under the law?

Are they protected? Is access to them limited? Those are all really good questions to be thinking about. And on top of that, could we flub it up by having people on the executive team just running their mouths and just talking or leaving their laptops open somewhere where they shouldn't or, having multiple people will have access to their phone or their cloud account.

Making sure that all these things are tightened is a really good, annual checkup, annual health type thing to do.

Sarah Sawyer: Yeah, and I think for a lot of companies take for granted- that obviously their C-level employees understand that they need to be careful with this information.

And I think that it is true that most C-level executives do have some consciousness around this and understanding. However, they are also human beings, right? Having training, having those reminders, because it's easy for just even having a conversation like at the airport or at a coffee shop or doing something.

We work everywhere these days. You step off the soccer field and have a [00:03:00] conversation, or you do these different things where you're blowing off some steam and you're having a stressful time and, your defenses are down. So having those regular reminders just like when you're doing your security training and those kinds of things, it's the same concept, to remind people that they need to be conscious of this.

They need to look around them. They need to think. ' Cause everyone's moving really fast, especially people in these big companies that we're talking about as our example here. There's a lot of work to do, and you gotta get it done quickly, and you're moving, you're shaking, you're getting stuff done.

And returning that conscious thought to, "Oh, where am I? What am I talking about? Who am I talking to about this, and who's around me even?"

Russell Berger: Yeah. Yeah you've got strategic plans. You've got innovations. You've got valuable information. You can put controls around it as best you can, and then, I think it makes sense to train and educate.

And as an owner or leader in the business yourself, model it. That we're just not gonna talk about this outside of, the safe places, the safe channels to talk about it. [00:04:00] And it's maybe a little bit different for us as lawyers because, we know we have privilege, and it's our ethical obligation to maintain that privilege.

So there's things sometimes that I might ordinarily, if I had any other job, I might mention to my wife "This happened today." But I don't. And, she gets it. She understands what my job is and why I'm keeping things confidential. And I think it makes sense to just take a version of that approach into, any profession where you have sensitive information.

Sarah Sawyer: Yeah. Good advice. Well, thanks Russell, and we'll see you next time.

Russell Berger: Thanks Sarah.