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Confidential Information: How Do I Protect My Idea?

[Kristie Prinz](#)

Q. I have an idea for manufacturers of heavy duty trucks. How do I get my idea to them? Trusting that it is a new idea, how do I keep it safe?

-- *Bill***A.**

You should never discuss an idea that you want to protect with anyone, except pursuant to a nondisclosure agreement, which specifically states that the information you disclose shall be treated as confidential.

However, you should know that not all nondisclosure agreements are equal. Many companies use language in these agreements that require the information to be stamped "confidential," or if oral, followed up within a certain period after the disclosure with a written document expressly describing the content of the information that is intended to be protected. In such cases, if you sign the agreement and believe that your idea will be protected without doing anything more, you stand to lose your rights to that idea.

Also important to consider is that many companies are using clauses in their nondisclosure agreements which provide that they can take and use as they choose certain information that their employees remember after a meeting in their unaided memories, regardless of whether or not such information would otherwise be treated as "confidential." They are also utilizing other clauses that can result in your losing your intellectual property rights in information that you are expecting to be protected.

Given these issues, it is always a good idea to consult an [intellectual property transactions attorney](#) in your jurisdiction prior to entering into any discussions with a business or person about ideas you plan to have protected. That attorney can help you draft a solid nondisclosure agreement that protects your rights, or alternatively, advise you on any issues that might be in an agreement that the opposing side asks you to sign.

Moreover, such attorney should be able to advise you if you should consider speaking with a patent

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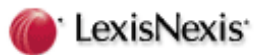
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prosecution attorney prior to doing anything with your idea. If your idea really constitutes an invention, it may be that a patent prosecutor would advise you to file a provisional patent before going forward with any planned discussions. You should explore whether any such issues exist before going forward with any discussions.

-- Kristie Prinz

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