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AI Everywhere, Secrets at Risk: A Modern Framework for Trade Secret Protection

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An Article that examines the significant risks that generative artificial intelligence (GenAI) poses to trade secrets as it becomes increasingly integrated into core business functions and provides practical mitigation strategies. This Article explains how the use of third-party, cloud-based GenAI solutions can lead to the inadvertent loss of trade secret protection through user inputs, file uploads, and the potential use of confidential information for model training. It outlines how the legal requirement to take “reasonable measures” to maintain secrecy must now account for the unique challenges of AI-enabled workflows. This Article also explores the expanding risk surface created by the shift from prompt-based tools to more autonomous AI agents capable of multi-step task execution without direct human supervision. To address these challenges, this Article presents a practical framework for deploying GenAI at scale while preserving trade secret rights, offering guidance on governance and policy, vendor due diligence, contract negotiation, technical controls, and incident response readiness.

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