



THE WPI

# VENTURE FORUM

Promoting and serving technology-based entrepreneurial activity

Volume 5, No. 7

March 1996

## Attracting Key Employees

*A look at the upcoming meeting*

Tuesday, March 19, 1996  
WPI Campus, Salisbury Labs, Room 115  
Registration: 6:00pm  
Meeting Begins: 6:30pm  
Admission Fee: \$7.00

**Y**ou have your business planned and you know what it will take to make your company successful, but you know you can not do it alone. You need the right high quality personnel to make this a reality, but how do you attract the best key employees?

The March meeting of the WPI Venture Forum will address this difficult issue by providing insight into how a company can attract high quality "key employees" in its earliest stages of development.

Our featured speaker for the evening will be Mr. James M.

Welch. Mr. Welch is the Sr. Vice President of Engineering and Support at Intellution, Inc. in Norwood. Intellution, Inc., established in 1980, is the world's leading manufacturer of industrial automation software. Since the release of its first software product, THE FIX<sup>®</sup> (fully-integrated control system), in 1984, Intellution has been defining the standard in easy-to-use, high performance, industrial automation solutions. With more than 37,000 installations worldwide, Intellution's software today is monitoring and controlling operations in three out of four Fortune 100 companies in virtually every industry across the globe. Mr. Welch, who holds a BS degree in Electrical Engineering from WPI and an MBA from Bentley College, was one of the original developers of Intellution's flagship product, THE FIX. Mr. Welch oversees the development, maintenance, and support of all Intellution's products and has over 12 years of experience in the design and development of software systems for the process control and factory automation environment.

Mr. Welch was not only one of the original key employees of Intellution, but also has been instrumental in attracting and hiring subsequent key person-

nel. He will provide insight into how he was attracted to joining Intellution at such an early stage of development and will discuss how to attract and keep such high quality key personnel.

### Case Presentation

Judith C. Laroque, Founder and President  
Market Perspectives, Inc.  
463 Worcester Road, Suite  
305  
Framingham, Massachusetts  
01701

Market Perspectives, Inc., founded in 1993 by Judith C. Laroque, has been providing real-time market intelligence and decision support software to trade show man- ▶

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March Meeting Sponsors—

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and

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## VENTURE

The mission of the WPI Venture Forum is to promote and serve technology-based entrepreneurial activity through education, networking, and recognition.

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Institute Rd., Worcester, MA 01609, (508) 831-5821.  
Volume 5, No. 7, March 1996.

*Letter from the Chair*

# Finding Resources, Part 2

In my column in last month's newsletter, I began providing our entrepreneurs with some information on finding FREE or CHEAP resources. Aside from the resource of the WPI Venture Forum itself, I outlined some of the services provided by the Small Business Development Center (SBDC), the Small Business Administration (SBA), Service Corps of Retired Executives (SCORE), and the Kirstein Branch of the Boston Public Library. If you'd like to know more about these, pull out your January 1996 issue of the WPI Venture Forum newsletter!

As promised, I'd like to give you some information on a few more of the resources I've come across in my travels. As I said in the last column, don't discount these services before you call and/or meet with them, even if you've run into people who have not had good luck. Every business is different, each of your needs is different. Someone who may not be able to help you at one stage may be the answer to your prayers six months down the road. So, keep at it.

Right here in Worcester, you might find the Worcester Consortium of Higher Education helpful. The Consortium is comprised of about ten colleges and universities in Central Massachusetts which provide a variety of services to foster higher education and entrepreneurialism. The Consortium pro-

vides faculty and graduate students as consultants or researchers, and undergraduate students for internships. You can reach the Consortium at (508) 754-6829.

You might also look to your local Chamber of Commerce. Very often the Chamber sponsors seminars aimed at small businesses which are relatively low cost and/or offer special services and referral services. Since the Chambers are really in business for business in their local community, they can be very helpful.

The Massachusetts Executive Office of Economic Affairs has several programs to help young businesses. Check out the Massachusetts Office of Business Development, the Division of Business Services, the Site Inventory Tracking Exchange (to find industrial and building space in Massachusetts), the Office of Permit and Regulatory Assistance (for help obtaining permits and licenses), the Office of Financial Assistance (for help with government finance programs), the Office of Market Research and Promotional Services, the Massachusetts Matching Service (matches manufacturers with suppliers in Massachusetts), and the Division of Manufacturing Development. Though the programs change from time to time (any one or more of the above may be called something different now, or depending on funding may offer different services), it's worth the phone call. You can reach the office by calling (617) 727-3206.

Finally, if you're looking to go "international," don't overlook the Massachusetts Office of International Trade and

## Taxes—To Plan or Not To Plan

By Paul F. McGrath, CPA, Mottle McGrath Braney & Flynn, PC

There has been much discussion lately comparing the current limited graduated income tax to a flat tax and/or a consumption tax. Thus far, however, it has been discussion only. Through the first part of 1996, no major federal tax changes have been made.

What is one to do for tax planning? Reducing a tax is in effect a way to raise capital for oneself or our business.

Right now the best way to plan is to know what the current rules are and at the same time have an ear open for any changes. Based upon this premise, a review of 1996 tax planning includes some of the following strategies.

- Tax rates. Tax rates could change in 1996, so you'll want to evaluate how that could affect your deductions. If rates go down, deductions will be less valuable, but if rates go up, they'll be more valuable. There also has been talk of eliminating deductions entirely.
- Charitable contributions. Even better than giving cash, consider donating stock, mutual funds, or other assets that have increased in value. As a general rule, you'll be able to take a charitable deduction for the full market value of the appreciated property, and you won't have to pay tax on the appreciation in value from the time you purchased the asset.

Also, try to find time to clean out closets. Used clothing and household items can add up to a sizable charitable deduction.

- For the self-employed. If you're self-employed, a Keogh retirement plan is still an excellent tax shelter. You aren't required to make your 1995 Keogh contribution until 1996, but you must have established your plan by December 31, 1995. You also should consider making a 1995 IRA contribution, which is due by April 15, 1996. A tax-deductible IRA is most desirable, if you qualify, but a nondeductible IRA still provides tax-deferred growth.

### Your Best Moves for Future

Until the tax picture comes into better focus, you should plan carefully before making any long-term financial commitments.

- Your home. For example, home prices may drop if Congress trims or eliminates the mortgage deduction, and existing mortgage write-offs could be disallowed under a new law. If you're planning to buy a home in the near future, you may want to calculate the cost of home ownership under current law, and compare it with the cost of ownership under several leading tax proposals. Then, armed with the numbers, you can decide what is best for you.

- Capital gains. Many tax proposals call for reducing, or even eliminating, the capital gains tax. So if you're planning to sell a home, business, or other real estate for a gain, try to postpone the sale for as long as possible. But don't let tax considerations override good economic sense. If you can't wait to put your property on the market, consider an installment sale. That way, at least, some of your gain may be taxed at new, lower rates.
- Your portfolio. No matter what happens to the tax laws, common stocks should continue to be good, long-term investments. If you haven't done so already, consider allocating a portion of your portfolio to stocks and stock mutual funds. The younger you are, the more money you might want to commit to stocks.
- Retirement plans. In looking ahead, it seems that 401(k) plans, Keoghs, IRAs, and SEP-IRAs are likely to remain excellent tax shelters for as long as we have any kind of income tax. Continue to participate to the maximum extent possible in any retirement plan that's available to you.
- Extraordinary events. Check the tax consequences of any unusual events in your financial affairs. For

WPI Venture Forum Presents...

## 1996 Annual Workshop

By Tony Pallotta

On Saturday, March 30, 1996 the WPI Venture Forum proudly presents their 6th annual workshop Vision to Reality, Lessons From Successful Entrepreneurs. To assure that everyone's needs are met, attendees will have many opportunities to choose from various workshops, roundtable discussions, networking breaks, one on one discussions with seasoned entrepreneurs and service providers, and a closing reception.

The morning will begin with a keynote address by Bill Rainville, President and CEO of Thermo Fibertek, Inc. Based in

Waltham, MA, Thermo Fibertek is a worldwide designer and manufacturer

of custom engineered systems and processing equipment for the paper and paper recycling industries. Eric R. Giler, President and CEO of Brooktrout Technology, Inc. will give the second keynote address during the luncheon. Located in Needham, MA, Brooktrout Technology is one of the fastest growing designers, manufacturers, and marketers of software and hardware products for use in facsimile and voice messaging applications in telecommunications and networking environments.

The program is divided into three sessions. The morning

session consists of four simultaneous workshops with topics ranging from Identifying Market Opportunities, Licensing and Leveraging Intellectual Property, Creating the Company Image, and Effective Networking. The afternoon session workshops include Finding Money - Business Plan Basics, Sales Strategies and Tactics, Marketing the Service Company, and The Internet Business Tool. There will be a total of seventeen presenters at these sessions, each of which, through their knowledge and proven entrepreneurial vision, can help address the issues facing you today.

A third session will entail roundtable discussion groups with the workshop presenters. One group will focus on Starting Your Business, while the other will focus on Growing Your Business. Also included is an

\$10,000

## 4th Annual Business Plan Contest

\$10,000

The WPI Venture Forum is pleased to announce its 4th Annual Business Plan Contest, this year sponsored by Testa, Hurwitz, & Thibeault. As in past years, the Forum will award a contest prize of \$10,000 total value to the company with the best business plan for a technology-based venture. The award will be given this spring and will consist of \$5,000 cash and \$5,000 in business-related services.

### Eligibility

The competition is open to all participants in the WPI Venture Forum and all other New England area entrepreneurs. To be eligible, applicants must submit a business plan meeting the following criteria:

- The plan must involve a technology based venture
- The plan must describe the development of a product, application, or process in an

existing business, or the start-up of a new business.

### Business Plan Entry

Each entrant must submit one(1) copy of the business plan with an entry application. The applications will be available in February 1996. The business plan should be no longer than twenty (20) pages in length, excluding exhibits. It is not necessary to disclose any proprietary information or technical details. The plan should, however, describe the critical factors in starting, operating, and growing the planned new product or business. The plan should include, but not be limited to, a description of the following:

- Product, Service, or Process
- Market Size and Growth
- Financial Statements and Projections
- Competitive Analysis
- Potential for Protecting Proprietary

agers and competitive companies in rapidly changing markets. The company is now expanding the available markets for its products and services by providing interactive on-line surveys for a broad range of consumer markets via diskette, e-mail, and Internet-access services.

Market Perspectives' standard trade show products include interactive trade show

surveys, in-booth surveys to benchmark company performance and qualify leads, and conference surveys for on-site feedback. The company's interactive on-line products include disk-by-mail and E-mail/Internet surveys, as well as Market Map end-user software for building interactive surveys, Market Map tool kit software for more advanced surveys, and Survey Challenge tools to check question structure and validity.

Market Perspective seeks

suggestions and guidance from our panelists in the following areas: attracting and keeping high quality personnel, raising money, and methods of enticing people to complete the surveys.

### **Panelists**

In addition to James M. Welch the panelists will include:

Kenneth C. Jeffers who has a broad background in general management, mergers and acquisitions, marketing, and



business development. Mr. Jeffers' last position was Group President of Ziff-Davis Publishing Company. In this capacity, he transformed the company from one with a multi-million dollar negative cash flow into a company with over 5 million dollars in operating profits and 300% sales growth over a three year period. Mr. Jeffers received a BA degree from Lehigh University, and MS and PhD degrees from Florida State University.

Paul Kelley, who is a managing partner of Zero Stage Capital Company, Inc., in Cambridge. Over the past twenty-five years Mr. Kelley has been a founder, an investor, a director, or advisor to more than sixty innovative high-tech ventures. He served on the SBA Task Force on small business and innovation, which was instrumental in the legislative proposals to create both the Patent Law Reform Act and the Small Business Innovation Research (SBIR) Act. Mr. Kelley has also been a delegate to the White House Conference on Small Business and was the primary author of its position paper on venture capital formation. He has an AB degree from Harvard College and an MBA from Northeastern University.

The speaker, case presenter, and panelists will be available for questions on an individual and group basis throughout the evening. The evening's event promises to be interesting and informative. See you there! **VF**

# Don't Allow Your Trade Secrets To Be Used Against You

By Peter D. McDermott and Robert H. Resis, Banner & Allegretti

A key employee of your company tenders their resignation. Your first reaction is to ponder how you will replace the employee. Then you find that your key employee is joining your competitor or is setting up their own competitive business, and suddenly your focus shifts. After all, this former employee knows a great deal of the trade secrets and other confidential business information which gives your company its favorable competitive position. Can you stop such competition? The free market and open competition are the epitome of American business, but what about your company know-how, trade secrets, client lists, customer data? Is that fair game?

The answer is you can stop wrongful competitive conduct, and you can protect your trade secrets and similar company property—for a price. The price is careful planning, consistent

business practices, and diligent effort.

And the price is right, because a few simple steps are much less expensive before a key employee resigns than hiring a lawyer and maintaining a lawsuit against the key employee after that employee has resigned. Misunderstandings with employees will also be reduced. The necessary steps for protecting your trade secrets may vary somewhat from one case to the next, but the basics are as follows.

## Protecting Ideas

Have employees sign an Employment Agreement as part of the hiring process. An Employment Agreement, in addition to covering other concerns, must include the obliga-

tion to maintain the confidentiality of all company trade secrets and proprietary business information—both during and after their employment with the company. This same agreement should also include provisions that the employee agrees to disclose and assign to the company all inventions and technical innovations relating to your company business, which he or she developed or worked on during the period of their employment (and perhaps even for a short period thereafter). Other provisions in the written Employment Agreement should make clear that the employee is to:

- Make and maintain adequate

*Increase your chances of winning awards*

*Lessen your chances of having payments to you suspended or delayed*



and current written records of all inventions and innovations relating to company business,

- Sign all necessary papers and otherwise provide proper assistance (at the company's expense), during and after employment with the company, to enable the company to obtain patents, copyrights, and other legal protection for all such inventions and innovations, and
- Immediately deliver to the company all company papers and other materials (including all copies) upon termination of employment.

### Some Simple Techniques

- Establish an internal procedure to continually identify newly developed or acquired trade secret information.
- Hold regular (at least annual) presentations to all company personnel who deal with or are exposed to the company's trade secrets (e.g. R&D and marketing personnel) or other confidential business informa-

tion, to refresh the message that such internal procedures must be followed (as a condition of continued employment!).

- Confirm to outsiders the company's commitment to protecting its trade secrets and other confidential business information. Being successful in asserting trade secret rights against a former employee, or others who you believe misappropriated them from your company, generally requires a showing that you had one or more trade secrets and that you were actively protecting them. More than one unfortunate company has put forward the argument that their trade secret protection plan was to pretend the information was unimportant. The argument that the trade secrets were cleverly hidden in plain view is naive, and seldom, if ever,

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works. Your company must instead show that it was aware of the trade secret in question, and was acting on its intention to protect its rights in the trade secret. Proof of your knowledge of your trade secrets, and of your intention to protect and enforce them, will typically be embodied in:

- Employment contracts,
- Labels and notices,
- Non-disclosure agreements,
- Security procedures,
- Customer and supplier restraints, and
- Workplace conditions, signage and document markings.

Use as many of these techniques and others as are useful and reasonable under the circumstances of your work environment. Deciding which to use will involve balancing the value of the trade secrets and/or other business information being protected, with the cost burden of the protection and enforcement program.

### Unfair Competition

Key employees should be required to sign a Covenant Not To Compete agreement, also referred to as a non-compete agreement. A typical non-compete agreement makes clear that during the period of ►

employment the employee is not to work for anyone other than the company, at least not in the same field. It may also provide that after termination the employee will not work in the same field for a defined period of time. This post-employment restriction may also be limited to a defined geographical area, depending upon the nature of the business.

It is important that the terms of a non-compete agreement be reasonable and relate to a protectable business interest of the company. Frequently, the non-compete provisions are included in the Employment Agreement, rather than being presented as a separate agreement.

If a non-compete agreement is too broad in its post-employment restrictions, it may be held unenforceable by a court. An example of a non-compete agreement that was held unenforceable involved syndicated columnist Mike Royko when he left the Chicago Sun-Times for the Chicago Tribune in 1984. A judge held the non-compete clause in Royko's personal service contract with the Sun-Times to be legally void, because it covered too broad a geographical area (any newspaper distributed in the Chicago metropolitan newspaper market) and would severely limit Royko's ability to seek employment. Perhaps if the clause had been limited to prohibit Royko from working for the Tribune for a limited period of time, it may have been held enforceable.

In comparison, David Geffen, a well known name in the music industry, apparently signed a well crafted non-compete clause when he sold Geffen Records to MCA Inc. for a reported \$550 million in 1990.

That non-compete clause excluded Geffen from the record business until April 1996, and was held enforceable.

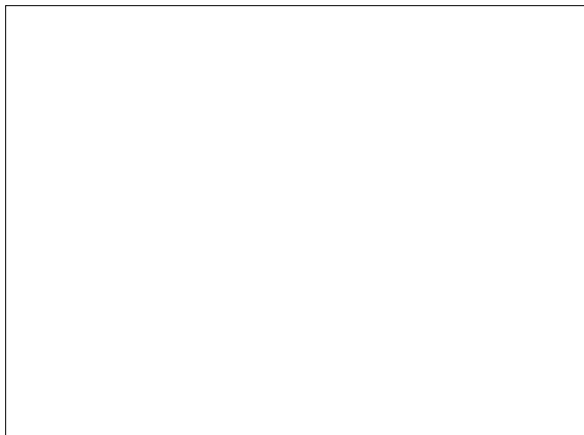
### Trade Secret "Infection"

It is necessary to think both offensively and defensively in dealing with trade secrets. Your management, marketing, R&D, and other key personnel dealing with outsiders on behalf of the company, could unwittingly be putting the company at risk. Casual requests to "keep quiet for now" about a supplier's new product offering, for example, may impose confidentiality obligations on your company. You may even be unaware of the obligation, leading to the supplier's confidential information being inadvertently incorporated into (we could say "infecting") your own company's product or process development. Unhappily for the company which received the information, more than one terminated supplier has sought to use a claim of trade secret misappropriation as leverage or retaliation.

One possible solution is a Confidential Disclosure Waiver Agreement or CDW agreement. This simple agreement usually specifies that all disclosed information will be treated as non-confidential, except that any patent rights and copyrights will be honored. Your key personnel should have ready access to a stack of CDW forms to be filled in and signed by suppliers and perhaps also customers, although with customers there are always broader issues of negotiating position and customer relations.

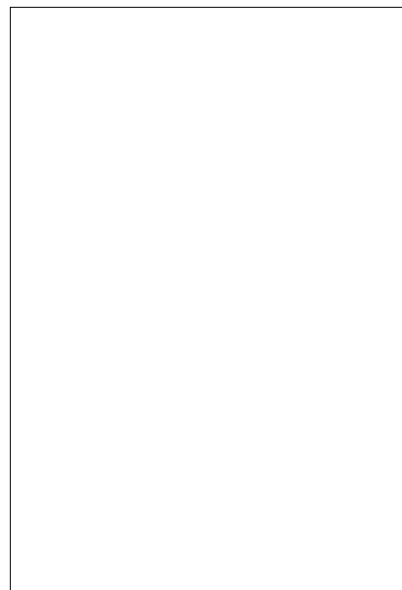
### Conclusion

The concerns discussed above may apply not only to your company's dealings with employees and suppliers, but also to such relationships as: (a) seller and buyer, (b) client and consultant, (c) joint venture partners, and others. In all such dealings, your company's trade secrets and other confidential business information



must be actively protected both offensively and defensively against both visible and not so visible threats. Keep your dukes up! **VF**

*Peter McDermott and Bob Resis are registered patent attorneys with Banner & Allegretti. Peter McDermott is in the Firm's Boston Office. Bob Resis is in the Chicago Office. Phone: (617) 345-9100, Fax: (617)*





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## **WPI VENTURE FORUM CALENDAR OF EVENTS**

*March 19, 1996*

Attracting Key Employees

*March 30, 1996*

1996 Annual Workshop

*April 16, 1996*

Effective Networking

*May 21, 1996*

Raising Money

*June 11, 1996*

Business Plan Contest

(note that this is the 2nd week of the month,  
not our usual 3rd week meeting)

For a recorded announcement of the next  
program or to receive future mailings, call  
(508) 831-5821.

### **Directions to WPI Campus, Salisbury Labs, Room 115**

From the East—Take Mass Pike (I-90) West to Exit 11A (I-495). Proceed north to I-290, then West into Worcester. Take Exit 18, turn right at end of ramp, then an immediate right before next traffic light. At next light, proceed straight through, bearing to right on Salisbury St. At the WPI sign, turn left onto Boynton St., then right onto Institute Rd., then right onto West St. Visitor parking is on left after footbridge.

From the West—Take Exit 10 off the Mass Pike to I-290 into Worcester. Get off at Exit 17 (Lincoln Sq. Belmont St., Rt 9W) and turn left off ramp. Continue through Lincoln Square to Highland St. following Rt 9. Turn right onto West St., past the first intersection. Visitor parking on left after footbridge.

WPI Venture Forum Presents—

## **4th Annual Business Plan Contest**

Deadline for entries

April 22, 1996

(See Page 4)