



Council of Industry Newsletter

January 2014
Volume 18
Issue 1

Hudson Valley Manufactures Anticipate Growth in 2014

The Council of Industry and Marist College’s Bureau of Economic Research and School of Management have compiled the results from their 2013 Annual Wage and Benefits survey of Hudson Valley manufacturing companies. Twenty four companies participated with a combined total of 2,354 employees.

Wage Trends

2013 wage increases among participating companies averaged 3.7% for the management group, 2.9% for the professional group, 2.6% for the administrative/clerical group, and 2.7% for the technical group and manufacturing groups.

Planned increases for 2014 are 2.5% for the management group, 2.8% for the professional group, 2.5% for the administrative/clerical group, 2.4% for the technical group, and 2.9% for the manufacturing groups.

Hiring Plans

Two thirds of the companies surveyed anticipate adding employees in 2014. An equal number of firms, however, also report difficulty in recruiting for certain skilled positions, a clear indication that the widely reported national skills gap for manufacturing also exists in the Hudson Valley. Among the positions reported as difficult to recruit for are: engineers (multiple types), welders, machinists, QC Technicians, QA Inspectors, mill and lathe operators, press brake operator, purchasing coordinator, chemists, cost accountants, programmer/analysts, entry level managers, diesel mechanics, Electronic Technicians, CNC Operators and multiple specialized knowledge technicians, structural fabricators, and skilled assembly workers.

“There is no coincidence that the number of companies that anticipate adding employees is equivalent to the number of firms having trouble filling positions. The Council of Industry is

actively working with the TAACCCT grant and the P-TECH program as ways of addressing these issues,” explained Harold King, Council of Industry Executive Vice President. “These projects should help close these gaps but may not be in time for 2014 hiring.” TAACCCT stands for Trade Adjustment Assistance Community College and Career Training and is a program of federally funded grants meant to drive innovation and the development of model training programs at America’s community colleges and universities. The New York State Pathways in Technology Early College High School (NYS P-TECH) program will prepare thousands of New York students for high-skills jobs of the future in technology, manufacturing, healthcare and finance. The model incorporates a six-year program that combines high school, college and career training and will be targeted to at-risk, disadvantaged students.

A Sampling of Surveyed Pay Rates

Position	Weighted Average
Machinist	23.44
Welder II	23.07
Quality Technician	20.40
Engineer Mechanical	31.57
Assembler II	17.03

Employee Benefits

100 percent of the companies surveyed offer health care coverage. Health care costs were only slightly higher than the previous year and more of the cost was borne by the employee than reported last year. In addition many companies offer dental plans (88%) and vision plans (71%) to employees. Twenty one companies (88%) offer a pension plan and half of the companies provide educational assistance.

This is the fifth straight year the Council of Industry has worked with the Marist College Bureau of Economic Research on a member Wage & Benefit survey. The Marist College Bureau of Economic Research conducts economic impact studies, GIS analyses of demographics and business location, as well as forecasting and policy analysis. In addition to the Wage & Benefits Survey, The Council and Marist also conduct an employment practices survey of member companies each spring. Council of Industry members are encouraged to participate in the survey and only companies that take part receive the full results.

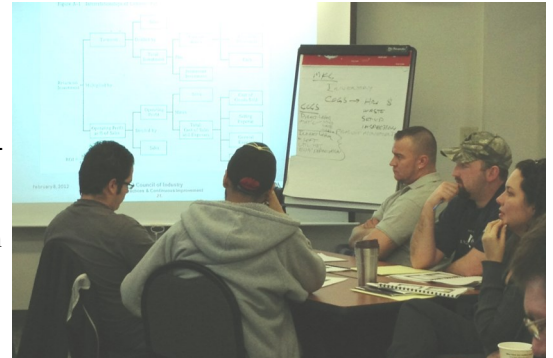
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Training and Education

Still Time to Register For Certificate in Manufacturing Leadership Classes



The goal of the Certificate program is to provide tools for leaders in the manufacturing workplace. These range from dealing with conflict or problems that may arise to being innovative, proactive and productive.

There is still time to register for the Certificate in Manufacturing Leadership Program. Whether it is just a course or two for seasoned managers or the entire program for new supervisors, your employees will benefit from this program specifically tailored for Hudson Valley Manufacturers by the Council of Industry and SUNY Dutchess.

The goal of the Certificate program is to provide tools for leaders in the manufacturing workplace. These range from dealing with conflict or problems that may arise to being innovative, proactive and productive. The instructors come from manufacturing backgrounds and provide material and strategies that are put into use during class so that participants are familiar with them by the time they finish. Each full day class includes a catered lunch and breakfast.

Each of the class titles below is a link to the course description online or for those reading the print version just go to www.councilofindustry.org and select Programs & Training on the menu, and select Course List, and click on Cert. In Manufacturing Leadership for a complete description of the program and the course listings and descriptions.

2014 Dates for Certificate in Manufacturing Leadership Program

- | | |
|---------------------------------------|---|
| <u>January 15, 22</u> | <u>Fundamentals of Leadership</u> |
| <u>February 5</u> | <u>Best Practices & Continuous Improvement</u> |
| <u>February 12</u> | <u>Human Resources Management</u> |
| <u>March 5</u> | <u>Problem Solving & Decision Making</u> |
| <u>March 19</u> | <u>Positive Motivation & Discipline</u> |
| <u>April 2</u> | <u>High Performance Teamwork</u> |
| <u>April 9</u> | <u>Effective Business Communication</u> |
| <u>April 30</u> | <u>Train the Trainer</u> |
| <u>May 7</u> | <u>Making a Profit : Financial & Accounting Issues in Manufacturing</u> |
| <u>May 21</u> | <u>Environment, Safety & Health Risk Management</u> |

Members can enroll online at www.councilofindustry.org or by emailing training@councilofindustry.org or by calling (845) 565-1355.



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Welcome New Member:
PDJ Components, Inc. - a wall panel, floor and roof truss manufacturer. Orange County. Contact: Sid Ketchum



Network & Council News

EHS Sub-council Meeting 2/28: Incident Investigation & Root Cause Analysis

When: Friday, February 28th from 8:30 - 10 am

Where: The Council of Industry office, The Desmond Campus of Mount St. Mary College, Newburgh, NY

Speaker: Ron Coons, Inphinite Potential

Cost: None for members

No one wants incidents to occur at work but if they do occur, it is important that we look at each one as an opportunity to learn from so that we can make appropriate changes through corrective actions so that a similar incident does not happen in the future. Ron Coons, Inphinite Potential, will cover Incident Investigation and Root Cause Analysis at this Environment, Health and Safety sub-council meeting.



Participants of this session will learn about the significant elements of an effective incident investigation process and how to properly define and determine the three levels of causal factors that contribute to an incident. Attendees will also find out how to use the incident investigation process as a method for increasing management commitment as well as expanding employee involvement in their safety and health programs.

All attendees will leave with editable documents that can be used immediately to improve upon and build their own incident investigation program.

To register online follow this link: <http://www.councilofindustry.org/council-networks/environmental-health-safety/>

Or email Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

HR Sub-council Meeting 1/17: Which Law Did You Break Today?

When: Friday, January 17th from 8:30 - 10 am

Where: The Council of Industry office, The Desmond Campus of Mount St. Mary College, Newburgh, NY

Speaker: Greg Chartier, HRInfo4U

Cost: None for members

Council of Industry member Greg Chartier will give a presentation based on information available in his new book – Which Law Did You Break Today? It is a guide to employment law that helps small business owners determine which laws they need to comply with, all relevant requirements, employer/employee rights, and where to obtain additional information.



Greg is a well-known management consultant, educator and speaker, and is the principle of The Office of Gregory J Chartier and HRInfo4U, a human resources consulting firm established in 2002. His book is available from Amazon.com and Google Books.

To register online follow this link: <http://www.councilofindustry.org/council-networks/humanresources/>

Or email Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

EHS Meeting on 2/28 - Participants of this session will learn about the significant elements of an effective incident investigation process and how to properly define and determine the three levels of causal factors that contribute to an incident.

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Personnel Matters

Employment Law Reminders

By Devora Lindeman, Greenwald Doherty, LLP, a Council of Industry Associate member

This month I thought I would address a number of quick reminders about issues where I find employers inadvertently stepping in legal landmines that could have been avoided with a little preparation and/or education.

Emergency Contact Forms: The start of the new year is a good time to make sure you have Emergency Contact Forms on file for each of your employees. What are you going to do if an employee stops showing up to work and doesn't contact you? You need someone to call. While it may seem hard to fathom, you may be the only one who knows this person is not accounted for. They could be sick at home, or worse. Attached is a form that can be utilized.

Reference Checking/Criminal Background Checks: When you have a promising candidate, check this person's references BEFORE you make the candidate an offer of employment. However, if you want to do a criminal background check, you may need to give the candidate a conditional offer of employment before running the background check. It is now illegal to ask about criminal convictions on an employment application (so-called "Ban-the-Box" laws) in Massachusetts, Minnesota, Rhode Island, Hawaii, and in certain cities including Newark, Philadelphia, Buffalo and Seattle. If you are uncertain of the laws that apply to your jurisdiction, consult with your employment attorney.

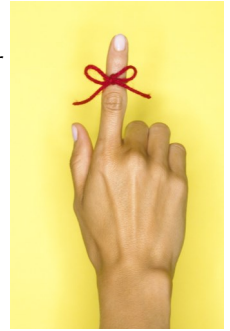
Employment Contracts: Although I generally recommend against having an employment contract with employees (usually, an offer letter specifying the terms of employment and an employee handbook with your policies and benefits will suffice), if you are going to utilize an employment contract, be sure that both you and the employee are clear as to the terms of the contract and that you have a document in writing to which you both agree (and which you

contract has an escape-clause. Otherwise, even if you have a poor performing employee, if you promised her 1 year of employment and terminate her after 5 months, you are going to be legally obligated to pay her an additional 7 months of compensation – unless the contract specifically says that you do not need to do that.

Loaning Employees Money: In short – don't do this. But, I know that it occurs. If you are going to loan an employee money, have them sign a paper acknowledging the amount they are borrowing and the repayment terms. Otherwise the employee can say you never made the loan. Whether you can deduct repayment amounts from your employee's paycheck depends on your local state law.

Confirming Attendance During Job Interviews: If you want to ensure that an employee will be present to do a job, you cannot ask the following because these questions are illegal: Are you pregnant? Do you have a medical condition that causes you to miss work? How many times have you taken workers' comp leave? Do you get colds frequently? Do you have a sick child at home that causes you to miss work? Do not ask these. What you can do is say that this job is important to the company and that, while you understand that emergencies happen, you would expect the successful candidate for the position to be able to be at work, on time, on a regular basis, because you need this position filled and the person to be there. If the applicant is selected for this position, is there any reason that he or she can foresee that the candidate would not be able to be present, at work, on time on a regular basis? During job interviews, ask the question you actually want answered.

Overtime Wages: Whether an employee is entitled to overtime pay is not based on whether the employee is paid on an hourly or salaried basis. It has to do with the duties and responsibilities of the person's job. It is a rare company where no one is legally entitled to overtime wages. Unfortunately, and I know employers try to do this, you cannot contract with an employee to avoid paying it. Compensation can be set so that the base wages plus expected overtime pay is in the range the company intends to pay—but overtime wages must be paid where the law requires.



When you have a promising candidate, check this person's references BEFORE you make the candidate an offer of employment. However, if you want to do a criminal background check, you may need to give the candidate a conditional offer of employment before running the background check.



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both sign). If you make the contract for a specific amount of time, then the employee is no longer at-will which can create multiple headaches for your company. If you must do a contract for a year or two, be sure the



More Personnel Matters

Increased Demand Should Spur Plans for H1B Filings and Contingencies

From Jackson Lewis LLP. A Council of Industry associate member

As the economy improves, the demand for H-1B Specialty Occupation visas will continue to increase. The Fiscal Year 2015 (FY15) H-1B filing season begins on April 1, 2014, and employers should plan for it now. In particular, they should expect that the available H-1B visas will run out due to high demand and have contingency plans in place.



The H-1B visa category is essential to many businesses that wish to employ foreign nationals in professional positions. Each year, the government makes available 65,000 new H-1B visas (commonly referred to as the “H-1B cap”) for individuals who do not hold H-1B status. (Current H-1B holders have been counted against prior caps, so status extensions are not subject to the limit.) Under the advanced degree exemption, an additional 20,000 H-1B petitions are available for individuals who have earned a U.S. Master’s Degree or higher. Cases approved under the H-1B cap will have a start date of October 1, 2014, the first day of the U.S. government’s fiscal calendar.

Last year, both the general and the Master’s Degree H-1B numbers ran out within the first week applications were accepted. Of the applications filed in the first week of April 2013, approximately 33 percent were rejected based purely on over-demand following a lottery system administered by U.S. Citizenship and Immigration Services (USCIS). Thus, employers should consider filing H-1B applications on or about April 1, 2014, to maximize the chances of approval. While USCIS has not confirmed if all petitions received during the first week of April will be held (as they did last time), failure to file on or about April 1st could mean employers will have to wait until October 2015 to obtain H-1B status for affected employees or prospective hires.

The H-1B cap applies to individuals who do not hold current H-1B status, such as students in F-1 status completing Optional Practical Training (OPT), TN status holders, L status holders, or job candidates currently residing abroad. It is particularly important for employers of students in F-1 status to seek a switch to H-1B status in a timely fashion.

Options are available to alleviate problems caused by the H-1B limit. For example, by enrolling in the federal E-Verify system, employers gain access to a special 17-month extension of work authorization for foreign students in STEM (Science, Technology, Engineering and Mathematics) fields. In addition, job candidates from Australia, Canada, Mexico, Chile and Singapore have treaty-based nonimmigrant visa options for the same types of positions typically filled by H-1B visa holders. In special circumstances, our attorneys also have filed O-1 petitions for individuals who have demonstrated extraordinary achievement in their fields.

If you have a current or prospective employee who will be subject to the H-1B limit, please contact a trusted immigration advisor for guidance on enrolling in E-Verify or exploring options.

The Fiscal Year 2015 (FY15) H-1B filing season begins on April 1, 2014, and employers should plan for it now. In particular, they should expect that the available H-1B visas will run out due to high demand and have contingency plans in place.

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LENDER

Legislative Matters

NYS Tax Commission Includes Recommendations from the Council of Industry and Manufacturers Alliance

By Karyn Burns, Director of Government Affairs for The Council of Industry

These recommendations came from our feedback from you, our membership, on what would be most beneficial in terms of policy changes and tax incentives, enabling you and your business the ability to grow and invest.

Governor Cuomo and his Tax Commission released their final report on recommendations for tax reduction incentives in New York State in early December. The Manufacturers Alliance and the Council of Industry provided feedback and recommendations to the Tax Commission on what should be included in the report. These recommendations came from our feedback from you, our membership, on what would be most beneficial in terms of policy changes and tax incentives, enabling you and your business the ability to grow and invest. We are pleased to report, the following recommendations, made by us and many of our business coalition partners, were included as recommendations within the final report:



18 a Elimination

“To further encourage business expansion, the Commission recommends that the temporary utility assessment (18-a), scheduled to be eliminated in 2018, will be eliminated in 2014 for industrial customers and all other customers will see an accelerated phase out of the surcharge. Together, these proposals will tackle the remaining barriers to investment and job growth that exist in the current tax regime.”

Corporate Income Tax

“To encourage New York's economic competitiveness, investment and further growth, the Commission recommends lower rates for businesses and a simplified tax structure. This includes the reform and simplification of the State's primary

corporate income taxes coupled with a reduction in the corporate income tax rate to 6.5 percent, the lowest corporate rate since 1968. The rate for upstate manufacturers upstate would be re-

duced further, to 2.5 percent, the lowest rate ever.”

Estate Tax Reform

“The Commission recognizes the need to update the estate tax. New York remains one of only 17 states with either an estate tax or an inheritance tax, and only two states currently have a lower exemption. Because estate tax thresholds have not kept pace with the rise in home values, more and more middle-income New Yorkers find themselves subject to the tax. The Commission is therefore recommending a major reform of the estate tax, increasing the State's threshold to \$5.25 million, indexed to inflation, and lowering the tax rate.”

“It is no secret that New York is one of the most expensive states in the nation in which to own and operate a business, if not the most expensive,” explained Harold King, Executive Vice President of the Council of Industry. “The commission recommendations are a step in the direction of reducing those costs and we will work with the Manufacturers Alliance and other groups to pass the recommendations that most help our members in the upcoming legislative session.”

E.J. McMahon, senior fellow, Empire Center was less optimistic in his opinion of the report, “Governor Cuomo has just been handed a decidedly mixed bag of tax-reduction recommendations -- combining pro-growth business-tax cuts with a gimmicky 'property-tax relief' package that would deliver virtually no economic bang for the buck.”

The Council of Industry and The Manufacturers Alliance will be providing our membership with a synopsis of the full report in the near future. It is our hope that these recommendations, coupled with your Public Policy Survey results and our 2014 Public Policy Agenda, will prompt Albany lawmakers to take these recommendations and pass them in the upcoming Governor's Executive budget and the 2014 legislative session.

If you would like to read the report in its entirety, a copy can be found by clicking <http://www.governor.ny.gov/assets/documents/>



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Healthcare Reform Update

What You Need to Know about the Small Business Health Care Tax Credit

From IMA Update

Editors note: To receive this credit you must have fewer than 25 full-time equivalent employees.

How will the credit make a difference for you?

For tax years 2010 through 2013, the maximum credit is 35 percent of premiums paid for small business employers and 25 percent of premiums paid for small tax-exempt employers such as charities.

For tax years beginning in 2014 or later, there will be changes to the credit:

- The maximum credit will increase to 50 percent of premiums paid for small business employers and 35 percent of premiums paid for small tax-exempt employers.
- To be eligible for the credit, a small employer must pay premiums on behalf of employees enrolled in a qualified health plan offered through a Small Business Health Options Program (SHOP) Marketplace.
- The credit will be available to eligible employers for two consecutive taxable years.

Here's what this means for you. If you pay \$50,000 a year toward workers' health care premiums — and if you qualify for a 15 percent credit, you save... \$7,500. If you save \$7,500 a year from tax year 2010 through 2013, that's total savings of \$30,000. If, in 2014, you qualify for a slightly larger credit, say 20 percent, your savings go from \$7,500 a year to \$10,000 a year.

Even if you are a small business employer who did not owe tax during the year, you can carry the credit back or forward to other tax years. Also, since the amount of the health insurance premium payments is more than the total credit, eligible small businesses can still claim a business expense deduction for the premiums in excess of the credit. That's both a credit and a deduction for employee premium payments.

There is good news for small tax-exempt employers too. The credit is refundable, so even if you have no taxable income, you may be eligible to receive the credit as a refund so long as it does not exceed your income tax withholding and Medicare tax liability.

And finally, if you can benefit from the credit this year but forgot to claim it on your tax return, there's still time to file an amended return.

Can you claim the credit?

Now that you know how the credit can make a difference for your business, let's determine if you can claim it.

To be eligible, you must cover at least 50 percent of the cost of single (not family) health care coverage for each of your employees. You must also have fewer than 25 full-time equivalent employees (FTEs). Those employees must have average wages of less than \$50,000 (as adjusted for inflation beginning in 2014) per year. Remember, you will have to purchase insurance through the SHOP Marketplace to be eligible for the credit for tax years 2014 and beyond.

Let us break it down for you even more.

You are probably wondering: what IS an FTE. Basically, two half-time workers count as one FTE. That means 20 half-time employees are equivalent to 10 FTEs, which makes the number of FTEs 10, not 20.

Now let's talk about average annual wages. Say you pay total wages of \$200,000 and have 10 FTEs. To figure average annual wages you divide \$200,000 by 10 — the number of FTEs — and the result is your average annual wage. The average annual wage would be \$20,000.

Also, the amount of the credit you receive works on a sliding scale. The smaller the business or charity, the bigger the credit. So if you have more than 10 FTEs or if the average wage is more than \$25,000 (as adjusted for inflation beginning in 2014), the amount of the credit you receive will be less.

Continued on page 15



There is good news for small tax-exempt employers too. The credit is refundable, so even if you have no taxable income, you may be eligible to receive the credit as a refund so long as it does not exceed your income tax withholding and Medicare tax liability.



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EHS Matters

Arc Blast Survival 101: Sometimes, walking away from an arc flash event is a matter of just doing your homework

By Travis Hessman from EHS Today

"We did everything by the book," he explained. Even still, he said, when the electrician opened the door to the transformer box – which shouldn't have touched or affected anything critical at all – the whole building exploded.

It's easy to complain, "We did everything right!" after a catastrophe – particularly when an explosive arc blast destroys the evidence.

But when John Kay, senior specialist, medium voltage technologies at Rockwell Automation says it, he actually means it.

It's a phrase he found himself repeating often at the America's Safest Companies conference in October when recounting an "up close and personal" encounter with an arc blast he experienced recently while performing a routine walkthrough at a customer facility.

"We did everything by the book," he explained. "We did a pre-meeting of what we were going to do, we walked through every step we were going to do, we wrote down what we were going to do, we signed off what we were going to do... we did everything right."

Even still, he said, when the electrician opened the door to the transformer box – which shouldn't have touched or affected anything critical at all – the whole building exploded.

"It was just a huge ball of fire," he recalled. "All I can remember is the sight of molten copper blowing through the smoke – it was like time stopped."

His first thought watching that eruption approach, he remembered, was, "Where's the electrician!?"

As a visitor not yet trained for the facility, Kay was standing back at a safe distance – part of his "doing everything right" protocol – but the electrician had his face just inches away from a 35,000 degree wave of molten copper and steel. He was at the dead center of an

explosion of blinding light, a deafening boom and a blast of shrapnel traveling over 700 miles per hour.

He was in the same position that kills and disables about 2,000 workers per year, according to Kay. The same position that, every 30 minutes, injures another worker.

Electrocution, Kay noted, still is the fourth leading cause of workplace fatalities in the United States and the second leading cause of lost time.

First place goes to the burns these arc flashes inflict.

With arc blast temperatures ranging up to five times the heat of the sun and shrapnel bursts equaling the force of a .22 caliber bullet, this is a hard event to walk away from unscathed.

But that's exactly what Kay's electrician

did.

"[The electrician] came running through the door at me, scared out of his wits, but totally safe," he said. "He was fine. In fact, he didn't even want to go to the hospital."

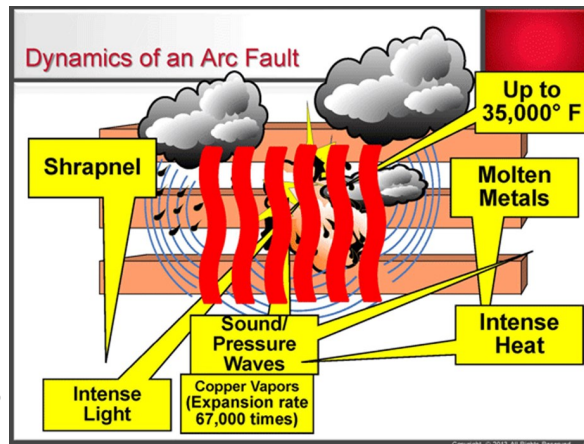
The reason for that, he said, goes back to the premise: he did everything right.

"The company had done its arc flash studies," Kay said. "They had all of the information labeled on [the electric box], so the electrician knew exactly what he was supposed to be wearing and, most importantly, he was wearing exactly what he was supposed to be wearing."

So while the building nearly burned down around them, Kay said, "This guy didn't have a mark on him. No burns, no injuries, no nothing."

Doing Your Homework

This outcome, as remarkable as it is, is becoming a far more common experience, Kay explained.



Continued on page 15



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CI Calendar of Training and Events

Jan 15 & 22	<u>Certificate in Manufacturing Leadership: Fundamentals of Leadership</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Jan 17	<u>Human Resources Sub-council: Which Law Did You Break Today?</u> - 8:30—10 am at the Council of Industry office, MSMC Desmond Campus, Newburgh. Presenter Greg Chartier, HRinfo4u.
Feb 5	<u>Certificate in Manufacturing Leadership: Best Practices & Continuous Improvement</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Feb 12	<u>Certificate in Manufacturing Leadership: Human Resource Management Issues</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Feb 28	<u>Environment, Health & Safety Sub-council: Incident Investigation & Root Cause Analysis</u> - 8:30—10 am at the Council of Industry office, MSMC Desmond Campus, Newburgh. Presenter Ron Coons, InPhinite Potential.
Mar 5	<u>Certificate in Manufacturing Leadership: Problem Solving & Decision Making</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Mar 19	<u>Certificate in Manufacturing Leadership: Positive Motivation & Discipline</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Apr 2	<u>Certificate in Manufacturing Leadership: High Performance Teamwork</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Apr 9	<u>Certificate in Manufacturing Leadership: Effective Business Communication</u> -9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY

You can find more information on the courses and events listed in our calendar by going to our website—www.councilofindustry.org or if you are reading our electronic version just press Ctrl and click the course title.

Manufacturing Job Opportunities

If you have job openings and positions to fill:

- Post it on the Council of Industry Website www.councilofindustry.org
- Look at resumes from our member recommended **For Hire page**

Contact Alison at abutler@councilofindustry.org for more info.



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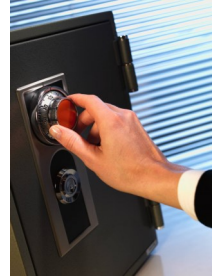
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Manufacturing Matters

The 10 Things Every Company Should Do to Protect Its IP

By Jeremy P. Occek, From Bond, Schoeneck & King's IP newsletter, a Council of Industry Associate Member



All companies – from technology innovators to manufacturers to service providers to financial institutions – own valuable IP. In a highly competitive and evolving digital world, how a company protects its IP is becoming more and more critical. For many companies their most important IP assets are the assets they use in everyday business. This includes a business's brand, its products and services, its customer and supplier lists, and a host of other items that provide IP assets to leverage against one's competitors. This article highlights the different forms of IP protection and discusses the 10 things that every company should do to protect its IP.

1. Conduct IP Audits

Why conduct an IP audit? A company's most valuable assets are often its IP rights. However, these IP rights could be lost if they are not identified and properly protected and maintained. The main purposes for conducting an IP audit are to help assess, preserve, and enhance a company's IP rights, correct any defects in these rights, and implement best practices for IP asset management. Akin to an inventory check, IP audits should be done on a regular basis (e.g., annually or semi-annually).

What does an IP audit involve? IP audits typically involve the following steps: 1) identifying all possible IP used by the company; 2) determining ownership of IP assets; 3) determining of validity IP assets; 4) seeking protection for IP assets not currently protected; and 5) verifying correct usage of any licensed IP. Additionally, qualitative measures may be used to analyze the extent of use, importance, and value of the IP, which can be expressed generally (such as "high" or "low") or in dollar amounts (typically done by outside consultants).

2. Protect Your Confidential Info (Trade Secrets)

Protecting against the disclosure of confidential business information and trade secrets is of vital importance to every company. Although the definition of what constitutes a "trade secret" may vary by state, it generally refers to some type of formula, knowledge, pattern, or device, not known to the general public, giving a company an advantage over competitors who do not possess such information. Examples of trade secrets include manufacturing methods, customer lists, pricing information, and

strategic marketing plans.

Some measures that companies can take to protect confidential business infor-

mation and trade secrets include: 1) implementing a confidentiality policy; 2) establishing day-to-day procedures and practices; 3) labeling trade secrets; and 4) limiting physical and electronic access to trade secrets.

3. Use Employee Agreements to Protect IP

A well-crafted employment agreement should contain a non-disclosure provision where the employee acknowledges they will not disclose any confidential business information learned of during the course of employment. The employment agreement should expressly state that its purpose is to protect the company's confidential information.

In the event an employee is promoted to a new position, you may wish to have the employee execute an updated agreement reflecting any new categories of confidential information to which the employee may be exposed.

Employment agreements should include also the assignment of invention-related IP. To that end, employees should be required to promptly and fully inform the company in writing of any inventions, discoveries, works, concepts and ideas created during the course of their employment.

4. Protect Your Company's Brand (Trademark)

Branding includes carefully defining what your business represents. The stronger the brand, the greater the correlation is to consumer purchasing.

To protect your brand, trademarks and trade dress law should be used to carefully considered.

A trademark is a word, symbol, or phrase, used to identify a company's products and distinguish them from the products of another company. When such marks are used to identify services rather than products, they are called "service marks," although they are generally treated the same as trademarks.

Trade dress – distinctive product or packaging features – can also be protected by trademark law principles. However, such features will not be protected if they confer any sort of functional advantage with respect to the product. Trademarks and trade dress are governed by both federal and state law. The main federal statute is the Lanham Act. Federal law provides the primary and most extensive source of trademark and trade dress protection, although state common law remedies are still available.

Companies should consider federal registration of trademarks and trade dress, which provides several key advantages, including: 1) public notice of your company's claim of ownership of the trademark; 2) the exclusive right to use the mark nationwide on or in connection with the goods and/or services listed in the registration; and 3) the right to use the federal registration symbol ®.

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5. Protect Your Company's Content (Copyright)

Every company generates content that may be protectable by copyright law. For example, a company's web site, manuals and brochures, catalogs, articles, presentations, training materials, computer software, and company documentation all may be protected by copyright. To be copyrightable, such content must be fixed in a tangible medium of expression (as opposed to abstract concepts) and be original (it must owe its origin to the author and not copied from a preexisting work).

Copyrightable works need not be registered with the U.S. Copyright Office to be protected by copyright law. But, registration is desirable because of proof of validity and registration is required to bring suit to enforce the copyright. Also, while a copyright notice (©) is not necessary for the work to receive copyright protection, using a copyright notice informs others of company's underlying claim to copyright ownership.

What rights are provided by copyright law? The owner of a copyright has the sole right to authorize reproduction of the work, creation of a work derived from the work, distribution of copies of the work, or public performance or display of the work.

6. Protect Your Company's Inventions (Patent)

Patent protection should be considered for your company's inventions. Without a patent, other companies can make and sell your invention without your permission and without compensating you.



Generally, the two main types of patents that companies seek are utility and design patents.

Utility patents can be obtained for any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof. However, laws of nature, physical phenomena, and abstract ideas are not patentable. Examples of utility patents include Apple's "slide to unlock" patent (US 7,657,849), Disney's "Fastpass" patent (US 6,173,209), and Keurig's "K-cup" patent (US 5,325,765).

Design patents can be obtained for any new, original, and ornamental (i.e., non-functional) design. Design patents protect the way something looks, rather than the way it is constructed or used. Design patents allow a company to exclude products of a competitor having an identical design to that shown in the patent figures, as well as any design that would deceive an ordinary observer into purchasing one supposing it to be the other.

Examples of design patents include Apple's "grid icon layout" patent (US D604,305) and the original Coca-Cola bottle (US D48,160).

7. Implement a Strategic IP Plan

Why implement a strategic plan? A strategic IP plan can prompt the development, maintenance, and utilization of a company's IP assets, just as a traditional business plan would do with tangible assets. Strategic planning requires an understanding of the com-

pany's goals, and thus the specifics of the IP plan will vary from company to company.

A central component to any strategic IP plan is the establishment of a committee for making strategic decisions, preferably in the form of an IP committee. The committee should incorporate the input of a variety of perspectives, including IP attorneys, managers, marketers, and product developers. The committee should meet on a regular basis (e.g., monthly or quarterly) to give consideration as to whether protection should be sustained, expanded or terminated for the company's various IP assets.

8. Implement an IP Reward Program

Why implement an IP reward program? IP reward systems (in particular, patent reward programs) are put in place by companies to give employees an incentive to disclose their inventions and other creative contributions.

With respect to patents, one of the primary roadblocks is getting inventors to write down their invention disclosure. Without this disclosure, the patent process does not go forward and the company cannot participate in protecting the idea. After the idea is written down, it may be further documented, developed into a patent, or at least documented that the idea exists within the company and the company owns it.

Also, under the current U.S. patent system, in which patents are awarded to the applicant who was first to file an application, there is increased pressure on companies to draft and file applications as quickly as possible. An IP reward program can help incentivize employees to submit timely invention disclosures.

9. Conduct IP Clearance Before Product Launch

Why conduct IP clearance before launch of new products? Every new product represents a new risk of infringing IP rights of others. Failing to conduct IP clearance before a product launches leaves companies without the opportunity to analyze, avoid, or manage risks proactively. Unanticipated risks can cause disruptions such as design changes and litigation.

Companies should build IP clearance into their product development processes. For example, early in development, a search may be conducted to discover general areas of IP risk, including potential blocking patents. Later, after a specific product concept has been defined, a targeted search may be conducted to identify patents relevant to specific features of the product in development.

10. Assess IP Competitive Intelligence

Monitoring and analyzing the competitive IP landscape can provide key insight and advance warning of potential risks. Patent, trademark, and copyright filings are public record and provide excellent sources to determine what others are working on, and may reveal a great deal about a competing corporation's IP strategies. Patent and trademark searches may indicate the market segments others are targeting. Also, the amount and frequency of patent and trademark filings of a competitor reveals the focus and intensity of their marketing and research efforts.

More Manufacturing Matters

Ford: Top 10 Trends Shaping the World in 2014

By Lauren Zanolli, From www.triplepundit.com

The business of selling cars, it would seem, has gotten a lot more sophisticated than the horseless carriage of the Henry Ford era.

As Ford's in-house futurist, Connelly and her team map the political, social, economic and cultural trends that are shaping the way people think, behave and buy around the world. They look at population and economic data, but, judging from this year's crop of trends, they are also paying very close attention to data from social media. It takes three years to bring a vehicle to market at Ford, so it pays for the company to predict the needs of the near-future consumer, maybe before the consumer really recognizes those needs himself.



The 2014 trend report, the first to look globally, paints a picture of a consumer market that is simultaneously enthralled with and wary of the relentless pace of technological innovation. It's a market that is starting to question the value of the "always-on" hyper-connected lifestyle, but is already dependent — maybe more than we'd like to admit — on the virtual embrace of technology, the adrenaline rush of a new "like" or a new follower.

Here's a look at the top ten trends Ford expects to shape the market over the next 1-3 years, including a big shift in sustainability thinking:

1. The Quiet Riot of Innovation

The iPad has only been out for three years, but its already ubiquitous. According to Connelly, this type of disruptive technology is dropping every day of the week, but we are so accustomed to it that we barely notice. Think of the way Square has aided small merchants. We have become "numb" to regular technological breakthroughs and can't actually process the pace of change in real-time.

2. Old School

People are longing to be reminded of the "softer, gentler" times of bygone days. We're nostalgic for the era where things were easier to control, products were well-made and things were less complicated. One point Connelly used to illustrate this trend was that 63 million photos were tagged on Instagram with #throwbackthursday. Whether the "old school" trend is a classic case of pure nostalgia or a more

nuanced backlash against mega-mass-market consumerism is up for debate. Chris Riley, founder of marketing research group StudioRiley and one of today's panelists played provocateur.

"We've been through a period of the consumer industry where we dropped the ball," he said. "People were able to buy affordable goods, but they're not very high quality." Could this harbor the beginnings of a new manufacturing trend that pursues quality and reliability instead of lowering the price point at any environmental or social cost?

3. Meaningful vs. the Middle Man

Here, Connelly used the example of etsy, the runaway-success consumer-to-producer online marketplace to illustrate the emerging desire for consumers to connect with producers on a more emotional level. Somewhat related to trend #2 above, Ford sees more and more people using their purchasing power to not just acquire things, but also experiences and stories.

4. Statusphere

"Sometimes wealth whispers, sometimes it screams," noted Connelly. As mentioned above this is the first trend report that Ford has researched globally, and what they found were major differences in how people project their wealth around the world. According to Connelly, Ford can look at the way wealth is projected (through online statuses and updates, and in the real world) to understand the level of sophistication of the consumer class in that particular market. So while being overweight might be a symbol of financial success in India, those extra pounds certainly don't play the same way in, say, San Francisco. With social media and constant connectivity, we now have more and more ways to project our status to more and more listeners.

5. Vying for Validation

This one is an anthropologist's field day. In their report, Ford uses the phrase "hyper-self-expression" to describe the deluge of tweets, updates, blog posts, texts and everything else that we project onto the internet on a daily basis. But maybe, postulates Ford, we've been living in the new digital world long enough to be able to reflect on the way it has affected us. Once we put all these bits and bytes of self-expression into the digital-sphere, we naturally crave validation...but with social media and internet publishing, we are now effectively seeking that validation from loose acquaintances or strangers. "Is craving validation from strangers a useful way to spend my time?" This is a question Connelly and her team think more and more people will be asking themselves next year.

6. Fear of Missing Out (FOMO) vs Joy of Missing Out (JOMO)

FOMO v. JOMO is another main part of Ford's hypothesis that the average consumer is questioning the benefits of constant connectivity. With more information at our fingertips than ever, we've been trained to always look for the "best" thing on the horizon...which leads to a constant feeling of FOMO.

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Member Benefits

The Spring Issue of HV Mfg is in the Works— Time to Update Your Member Listing

We are putting together the third issue of HV Mfg, the manufacturing magazine for the Hudson Valley which will be published in the Spring of 2014. The spring issue includes a member and associate member directory with company names, addresses, phone and fax numbers in addition to a brief description. Please go online to the Council website: www.councilofindustry.org and view your company’s information and email Alison Butler with any changes or updates at abutler@councilofindustry.org.

HV Mfg. is a resource guide as well as a magazine chock full of information. The Council of Industry and Martinelli Custom Publishing distributed 4,000 copies of the fall issue to manufacturers, their associate industries, colleges, vocational training facilities, local economic development centers and high schools throughout southeastern New York. HV Mfg is spreading the word the manufacturing is vital, right here in the Hudson Valley.

Each issue contains stories on local manufacturers, both a leadership profile and a company profile, in addition to articles on legislative and advocacy issues, developments in technology and workforce and training development items. If you haven’t received a copy contact our office at (845) 565 – 1355 and we will add you to our mailing list or check out the digital version on our website.

There is still time to place an ad in the spring issue of 2014 HV Mfg. With a variety of ad sizing and pricing this is a great way of showing your support of manufacturing and getting your company’s name out to the public. For more information and pricing visit our website: <http://www.councilofindustry.org/?p=164> or contact Tom Martinelli at email tom@martinellipublishing.com or call (845) 462- 1209.



Consumer Price Index for Nov. 2013

				<u>Point</u>	<u>%</u>	<u>% Increase</u>
Wage Earners	Nov.	Nov.	Oct.	In-	Month	Year
1967=100	674.96	682.52	684.31	-1.79	-0.3	1.1
1982-84= 100	226.60	229.13	229.74	-0.60	-0.3	1.1
All Urban						
1967=100	689.64	698.17	699.60	-1.43	-0.2	1.2
1982-84=100	230.22	233.07	233.55	-0.48	-0.2	1.2
Hudson Valley unemployment rate for November 2013 = 5.8%						

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More Manufacturing Matters

On the flipside, people are learning that maybe it's better to focus on the moment and celebrate the JOMO. To the disappointment of this writer, there was no mention of the other proud acronym of 2013: YOLO.

7. Micro Moments

As information proliferates, our downtime shrinks in equal proportion. Or so it would seem to Ford. Connelly and her team paint a picture of smartphone-addicted hyper-productive worker bees that just can't "turn it off"....

8. Myth of Multi-Tasking

Which leads to one of the more provocative trends in the report. Smartphones were sold to us, in part, with the promise of saving us time. A promise that Connelly calls "propaganda" because, in fact, those magical little devices are sucking up more and more of our time. As anyone with a company Blackberry knows, the line between "work" and "not-work" is very blurred and the emails and updates never seem to cease. Instead of becoming hyper-productive and efficient multi-taskers we have grown used to, as Connelly says, "giving partial attention to the world around us."

9. Female Frontier

2012 might have been the "year of the woman" but the ladies still seem to be rolling through universities, boardrooms and glass ceilings, albeit at a slow and steady pace, in 2013. Progress on equal pay and equal rights for women around the world is certainly a trend for the greater good, and one that deserves continual, close attention and not just splashy headlines. There wasn't much ground-breaking for Ford here. But interestingly, Riley called urbanization the "agent of change" for women in developing countries, pointing to the lower birth rates and higher levels of education and opportunity found in cities.

10. Sustainability Blues

Finally the big sustainability reveal! So what is the big sustainability trend in 2014 and beyond? Water. According to Ford, it's not "green" we should be really worried about, but "blue." Sure, it's rather convenient for a car manufacturer to draw the world's attention away from climate change and toward the growing water shortage. But to be fair, Ford has arguably done its part by producing hybrid cars and following better vehicle emission standards. There's no doubt that water conservation is an extremely serious issue that will only grow in importance, especially in water-scarce areas like the Middle East. But to frame the sustainability world as "green vs. blue" seems like a false choice.

You might be asking yourself, how does this all relate to the car industry? Cars, especially in the developed world, are increasingly pieces of computing power, not just a way to get around. Consumers have learned to expect the constant innovation of new features on each year's model and companies are eager to respond. As Connelly noted, the FOMO vs JOMO trend is likely to have the most direct impact on Ford's planning. "Do people want their car to be a hub of productivity," she asked, "or a sanctuary?"

Well, consumers, want do you want? Industry leaders are listening to your tweets, looking at your Instagrams and studying your Facebook feed for clues. You might as well just speak up and tell them.



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Since about 2009, he said, arc flash incident rates – along with the injuries and fatalities they inflict – have leveled off dramatically.

“Electrical art flash incidents still continue,” he said. “The nice thing is they have baselined – kind of plateaued.”

That change, he said, is a result of an evolving set of standards that are quickly redefining the basic approach to electrical safety.

In his presentation at ASC, “What EHS Managers Should Know about NFPA Standards and Mitigating Electrical Safety Risk,” he explained that understanding these changing standards is critical continuing the positive safety trend while keeping the workplace complaint in the coming years.

New consensus standards from the National Fire Protection Association (NFPA), for example, now require all electrical safety programs to be audited on a cycle of three years or less, he explained. On top of that, electrical system studies must be completed every five years or less, and regular safety training and assessments for all electrical workers every three years or less. And all of these changes are subject to OSHA enforcement.

At the same time, arc-resistant clothing has evolved from eye protection and basic flame-retardant materials, to set ups that protect against the full danger of a blast, while new arc-resistant technologies are eliminating more and more of the danger before they start. NFPA and OSHA are already on the move to standardize and regulate those changes as well.

In the end, Kay said, the NFPA standards and OSHA regulations require vigilant, careful study at every level. Doing so can mean the difference between life and death – the difference between Kay’s electrician emerging unscathed from a burning facility and losing him in the rubble.

“These thing happen,” Kay explained. “You can do everything right and they still happen. But if you’ve done your homework and get them where you have a safe facility, you actually may save a person’s life.”

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If you are a small business, include the amount as part of the general business credit on your income tax return.

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