

Morgan Lewis

**THE NEW FEDERAL TRADE SECRETS LAW:
DEFEND TRADE SECRETS ACT OF 2016**

WHAT YOU NEED TO KNOW NOW

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Overview

- Background
- Key features of the Defend Trade Secrets Act (DTSA)
- Practical steps to take now

Defend Trade Secrets Act of 2016

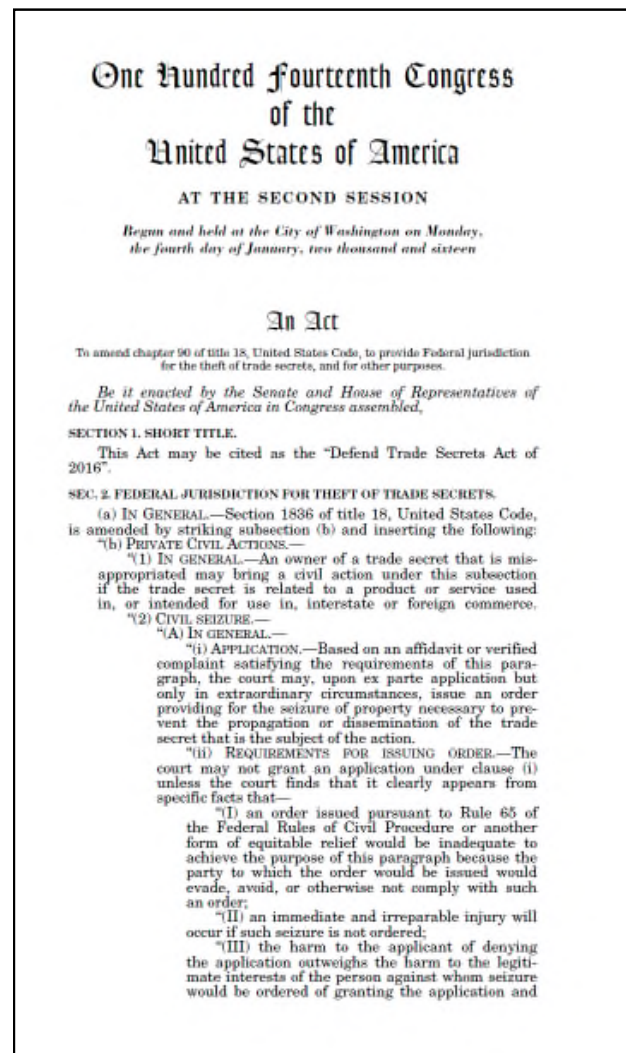
- Background
 - New law and overview
- What is a trade secret?
 - Distinguish other IP protections
- Reasons for DTSA
 - Legislative history
- Amending the Economic Espionage Act
 - Distinguish criminal cases

SECTION 01

NEW LAW AND OVERVIEW

New Law and Overview

- Landmark reforms
- Modernize and strengthen trade secret law
- Amends Economic Espionage Act of 1996
 - Federal criminal statute
- New federal civil right of action
 - New tools and protections
 - Addressing digital trade secret issues



SECTION 02

WHAT IS A TRADE SECRET?

	TRADE SECRET	PATENT	COPYRIGHT	TRADEMARK
Protects tangible/intangible ideas?	Both	Tangible ideas reduced to practice in a way that persons of ordinary skill in the art can practice the invention	Tangible expression of an idea, not the idea itself	No. Protects symbols indicating source of goods.
Can idea be disclosed?	No. It must be kept secret to be protected.	Yes, as part of the application process	Yes. Registration with Copyright Office is prerequisite to filing suit. Trade secrets can be redacted.	Yes. Enjoys no protection until and unless mark is disclosed to customers.
Novelty requirement?	No	Yes	No	need not be distinctive for protection; valid marks must be new.
Keep others from practicing IP?	Only if secret is misappropriated; not if it is independently generated or legitimately reverse engineered	Yes, even if idea is not misappropriated or copied	Only if there has been copying	Only if there is a likelihood of confusion by consumers

What is a Trade Secret? – Uniform Trade Secrets Act

- “Trade secret” means **information**, including a formula, pattern, compilation, program, device, method, technique, or process that:
 - (i) derives **independent economic value**, actual or potential, **from not being generally known** to, and **not being readily ascertainable** by, other person who can obtain economic value from its disclosure or use, and
 - (ii) is the subject of **efforts that are reasonable** under the circumstance to **maintain its secrecy.**”

What is a Trade Secret? – Defense of Trade Secrets Act

- “[T]he term ‘trade secret’ means all forms and types of financial, business, scientific, technical, economic, or engineering **information**, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if –
 - (a) the owner thereof has taken **reasonable measures to keep such information secret**; and
 - (b) the information derives **independent economic value**, actual or potential, **from not being generally known** to, and **not being readily ascertainable** through proper means by, another person who can obtain economic value from the disclosure or use of information....”

Trade Secret Examples

- Formulas
- Recipes
- Source code
- Compilations
- Methods
- Techniques
- Prototypes
- Designs
- Business strategies
- Marketing plans
- Specifications
- Scientific data
- Financial data
- Customer lists and data

Reasonable Measures to Protect

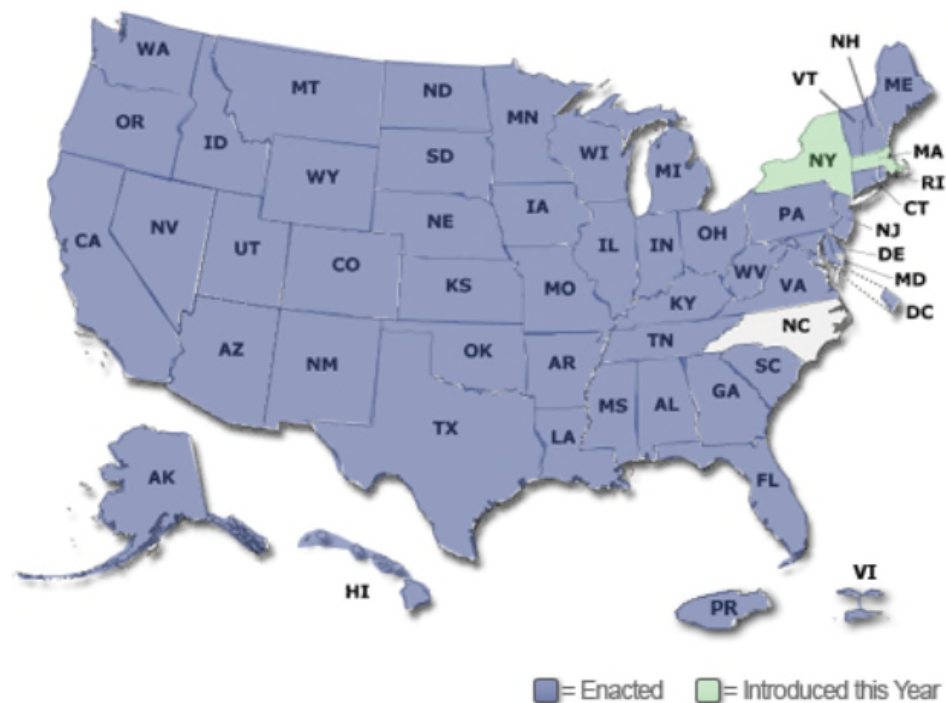
- Extraordinary measures not required
- Every business does not need to implement the same measures for protection
- Nature of trade secrets and of the business will impact assessment of whether measures are reasonable
- Not all unprotected disclosures destroy trade secret protection, but must take reasonable steps to cure

SECTION 03

REASONS FOR DTSA

Uniform Trade Secret Act (UTSA)

- Uniform Law Commissioners (1979)
 - Amended (1985)
- 47 states
 - Also DC, Puerto Rico, and Virgin Islands
 - Non-UTSA states
 - Massachusetts
 - New York
 - North Carolina
- Variations among states
 - Procedural
 - Substantive



[http://www.uniformlaws.org/LegislativeMap.aspx?title=trade Secrets Act](http://www.uniformlaws.org/LegislativeMap.aspx?title=trade%20Secrets%20Act)

Reasons for the New Law

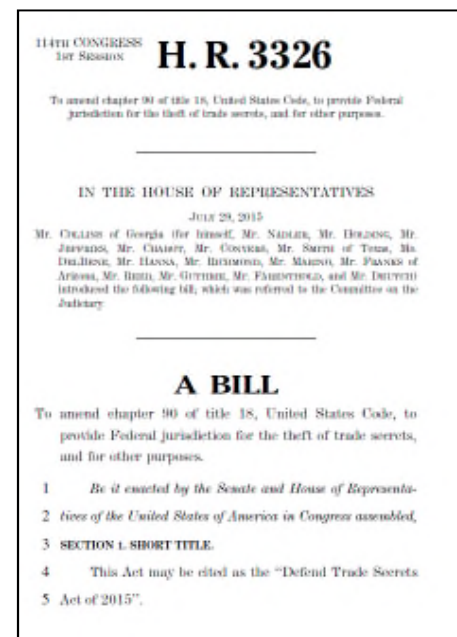
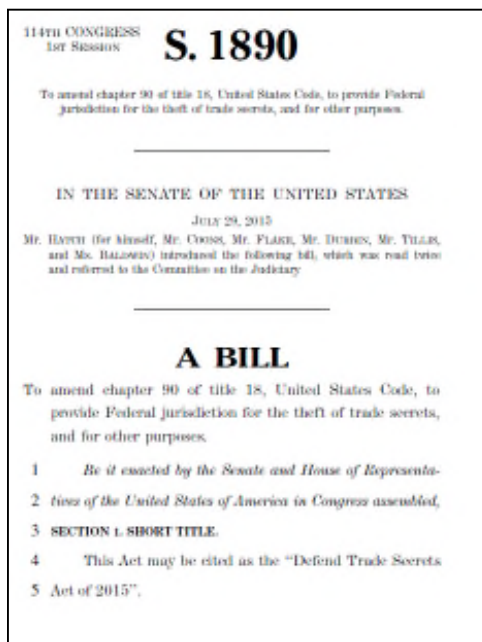
- Congress motivated to address foreign government corporate espionage and online corporate hacking by cyber-criminals
- Put trade secret protections in line with other forms of IP
- Establish a uniform national law of trade secrets to fix the complexities and costs created by the patchwork quilt of state trade secret laws
 - All states have enacted some form of UTSA – except New York, Massachusetts, and North Carolina
 - Lack of uniformity among states that have adopted a form of UTSA
 - California: does not follow UTSA exception precluding availability of money damages where award would be inequitable under certain conditions
 - Illinois: explicitly states that lists of actual or potential customers are entitled to trade secret protection; statute of limitation is 5 years (not 3)
 - Texas: explicitly protects customer lists, financial data, does not have “equity” exception for monetary damages; directs courts to presumption in favor of granting protective orders

Congressional Debate

- Value and role of trade secrets to economy
- “Digitization of critical data”
- Increased global trade
- UTSA limitations in a national and global economy
 - Variation in state laws
 - Need for “swift action” to prevent trade secret loss
 - Remedy challenges and delays after stolen trade secret crosses state lines

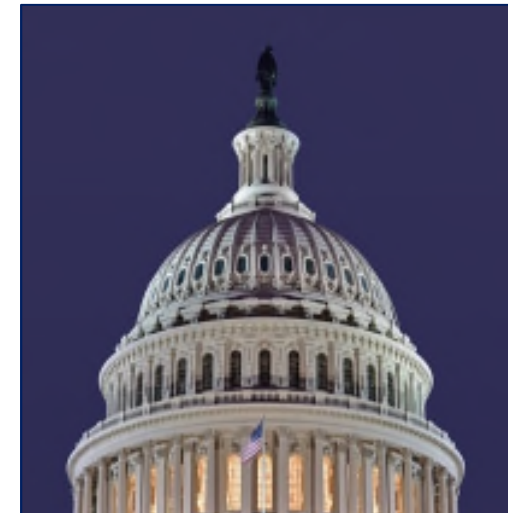
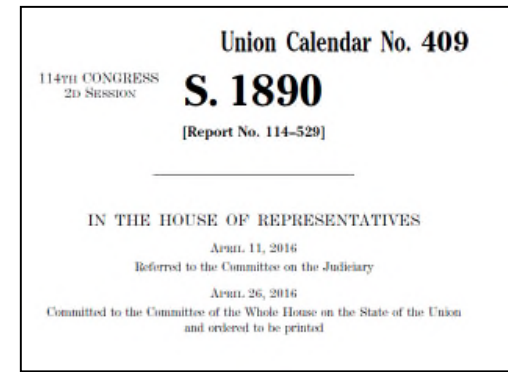
Bipartisan Effort

- July 29, 2015
- S. 1890
 - Senator Orrin Hatch (R-Utah) and Senator Chris Coons (D-Delaware)
 - 65 co-sponsors
- H.R. 3326
 - Congressman Doug Collins (R-Georgia) and Congressman Jerrold Nadler (D-New York)
 - 164 co-sponsors



Congressional Action

- Senate
 - April 4, 2016
 - Unanimously passed **87 to 0**
 - Senate Judiciary Committee
 - Jan. 28, 2016, unanimous voice vote
 - Dec. 2, 2015, Senate Judiciary Committee Hearing
- House of Representatives
 - April 27, 2016
 - Passed **410 to 2**
 - House Judiciary Committee
 - April 20, 2016, unanimous voice vote
- Enacted on May 11, 2016

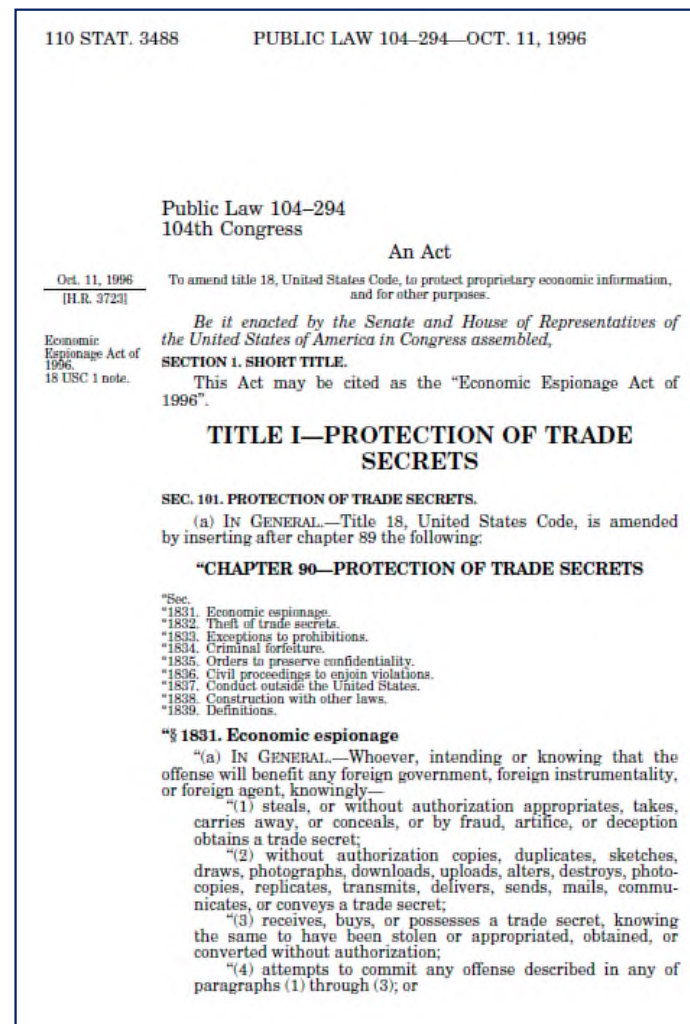


SECTION 04

**AMENDING THE
ECONOMIC ESPIONAGE
ACT OF 1996**

Economic Espionage Act of 1996

- Federal criminal statute
 - Enacted on Oct. 11, 1996
- Promote national and economic security
- President Clinton signing statement:
 - “**Trade secrets are an integral part of virtually every sector of our economy** and are essential to maintaining the health and competitiveness of critical industries operating in the United States. Economic espionage and trade secret theft threaten our Nation’s national security and economic well-being.”
 - “Until today, **Federal law has not accorded appropriate or adequate protection to trade secrets**, making it difficult to prosecute thefts involving this type of information. Law enforcement officials relied instead on antiquated laws that have not kept pace with technological advances of modern society.”



Economic Espionage Act of 1996























Section 1832

- Theft of trade secret
 - Intent to injure trade secret owner
 - Intent to convert the trade secret “to the economic benefit of anyone other than the owner”
 - About 25 cases a year

Section 1831

- Foreign economic espionage
 - Intent to benefit
 - Foreign government
 - Foreign instrumentality
 - Foreign agent
 - Eleven cases since 1996 authorized under a special DOJ approval process

Authorized Section 1831 Cases

No.	Case	District (Year)		Foreign Government or Instrumentality	
1	<i>US v. Takashi Okamoto</i>	NDOH (2001)		Japan	
2	<i>US v. Fei Ye and Ming Zhong</i>	NDCA (2002)		PRC	
3	<i>US v. Xiaodong Sheldon Meng</i>	NDCA (2006)		PRC	
4	<i>US v. Lan Lee and Yuefei Ge</i>	NDCA (2007)		PRC	
5	<i>US v. Dongfan Chung</i>	CDCA (2008)		PRC	
6	<i>US v. Hanjuan Jin</i>	NDIL (2008)		PRC	
7	<i>US v. Kexue Huang</i>	SDIN (2010)		PRC	
8	<i>US v. Elliott W. Doxer</i>	D. Mass (2010)		Israel	
9	<i>US v. Walter Liew</i>	NDCA (2012)		PRC	
10	<i>US v. Wang Dong et al.</i>	WDPA (2014)		PRC	
11	<i>US v. Weir Pang et al.</i>	NDCA (2015)		PRC	

Criminal Prosecution

- Scope of the criminal activity including evidence of involvement by a foreign government, agent, or instrumentality
 - Degree of economic injury to the trade secret owner
 - Type of trade secret misappropriated
 - Effectiveness of available civil remedies
 - Potential deterrent value of the prosecution [USAM § 9-59.100]
-
- Other questions:
 - Manner of the misappropriation (such as the circumstances of theft; substantial planning and preparation; leaving the jurisdiction or country)
 - Use of misappropriated trade secret or specific plans made to use it
 - Steps to disclose trade secret to a foreign government or competitor
 - Loss or destruction of trade secrets



Defend Trade Secrets Act of 2016

- Federal private right of action
- Election of Federal or State law remedies
 - CUTSA
 - Acquire, use, or disclose
- Remedies
- *Ex parte* seizure order
- Protections during litigation
- Immunity and notice
- Criminal penalties and RICO
- Federal best practices reports

SECTION 05

FEDERAL PRIVATE RIGHT OF ACTION

Federal Private Right of Action

One Hundred Fourteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Monday,
the fourth day of January, two thousand and sixteen*

An Act

To amend chapter 90 of title 18, United States Code, to provide Federal jurisdiction for the theft of trade secrets, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defend Trade Secrets Act of 2016".

SEC. 2. FEDERAL JURISDICTION FOR THEFT OF TRADE SECRETS.

(a) IN GENERAL.—Section 1836 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) PRIVATE CIVIL ACTIONS.—

"(1) IN GENERAL.—An owner of a trade secret that is misappropriated may bring a civil action under this subsection if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.

"(2) CIVIL SEIZURE.—

"(A) IN GENERAL.—

"(i) APPLICATION.—Based on complaint satisfying the require

"(b) PRIVATE CIVIL ACTIONS.—

"(1) IN GENERAL.—An owner of a trade secret that is misappropriated may bring a civil action under this subsection if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.

Complementary Federal Remedy

114TH CONGRESS } <i>2d Session</i>	HOUSE OF REPRESENTATIVES	{ REPORT 114-529
DEFEND TRADE SECRETS ACT OF 2016		
APRIL 26, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed		
Mr. GOODLATTE, from the Committee on the Judiciary, submitted the following		
R E P O R T		
[To accompany S. 1890]		

The Act's definition of misappropriation is modeled on the Uniform Trade Secrets Act, versions of which have been adopted by 48 states. The Act does not pre-empt these state laws and offers a complementary Federal remedy if the jurisdictional threshold for Federal jurisdiction is satisfied. The Act defines misappropriation

Misappropriation of Trade Secrets

- Acquisition, disclosure, or use by **improper means** and without consent
- Person knows *or has reason to know*:
 - Acquisition by **improper means**
 - Acquisition by mistake or accident *and* had knowledge before material change in position
- Inevitable disclosure
 - **Not** in some states (such as California and New York)

Remedies for Misappropriation

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"(2) CIVIL SEIZURE.—

"(A) IN GENERAL.—

"(i) APPLICATION.—Based on an affidavit or verified complaint satisfying the requirements of this paragraph, the court may, upon ex parte application but only in extraordinary circumstances, issue an order providing for the seizure of property necessary to prevent the propagation or dissemination of the trade secret that is the subject of the action.

"(ii) REQUIREMENTS FOR ISSUING ORDER.—The court may not grant an application under clause (i) unless the court finds that it clearly appears from specific facts that—

"(I) an order issued pursuant to Rule 65 of the Federal Rules of Civil Procedure or another form of equitable relief would be inadequate to achieve the purpose of this paragraph because the party to which the order would be issued would evade, avoid, or otherwise not comply with such an order;

"(II) an immediate and irreparable injury will occur if such seizure is not ordered;

"(III) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application and

"(3) REMEDIES.—In a civil action brought under this subsection with respect to the misappropriation of a trade secret, a court may—

- Award damages, assessed by:
 - Actual loss;
 - Unjust enrichment; or
 - Reasonably royalty
- Grant an injunction
- Award exemplary damages & attorney's fees

Remedy for Misappropriation: Injunctive Relief

- Types of injunctions:
 - Prevent actual or threatened misappropriation
 - Require affirmative actions to protect the trade secret
 - Condition future use of the trade secret upon payment of a reasonable royalty (in exceptional circumstances)
- Restrictions on Injunctive Relief:
 - Cannot prevent anyone from entering into an employment relationship or impose conditions on employment without **“evidence of threatened misappropriation”**
 - Cannot be premised “merely on the information the person knows,” *i.e.*, no inevitable disclosure doctrine
 - Cannot “conflict with an applicable State law prohibiting restraints on the practice of a lawful profession, trade, or business”
 - *i.e.*, California Bus. & Prof. Code § 16600

Remedy for Misappropriation: Exemplary Damages & Attorney's Fees

- A court may award **exemplary damages** not exceeding twice the compensatory damages awarded when there is a **willful** and **malicious** misappropriation of a trade secret
- A court may also award **attorney's fees** when:
 - There is a willful and malicious misappropriation of a trade secret, or
 - The claim of misappropriation was made in bad faith, or
 - The motion to terminate an injunction was made in bad faith, or
 - The motion to terminate an injunction was opposed in bad faith

Why Pursue Federal Trade Secret Claims

- Need for out of state discovery/enforcement
- Desired remedies
- Substantive differences (depends on state)
 - Scope of information qualifying as a trade secret?
 - Different standards in proving “reasonable measures” to establish a trade secret?
- Procedural differences
 - *E.g.*, Requiring identification of trade secrets with “reasonable particularity” (Cal. Civ. Code § 2019.210)
- Protecting trade secrets during litigation
- Statute of limitations

SECTION 06

***EX PARTE* SEIZURE ORDER**

Seizure Orders and Injunctions Pre-DTSA

- Federal Rule of Civil Procedure 65
 - TRO available if the plaintiff demonstrates that, absent the order, it will suffer “immediate and irreparable injury, loss, or damage”
 - TRO may be granted *ex parte*
 - TRO may provide for seizures and preservation of evidence
- Question: DTSA’s practical impact on these remedies
- California law
 - Cal. Civ. Code 3426.2(a)
 - TRO and preliminary injunction available
 - Expedited discovery

New Recovery Tool to Seize Trade Secrets

- **Challenge:** “Recovery Gap” problem
- New tool upon “extraordinary circumstances”
- Balancing interests
- Scope and limitations
 - Actual possession requirement
 - First Amendment concerns

Applicant Showing

- TRO inadequate
- Immediate and irreparable injury will result without seizure
- Balancing harm
- Likelihood of success
- Describe matter to be seized with “reasonable particularity” and identify location for seizure
- Risk the trade secret may be destroyed, moved, hidden, or otherwise inaccessible with notice
- Applicant has not publicized requested seizure

Court Order

- Findings of fact and conclusions of law
- Narrowest seizure of property necessary
- Order of non-disclosure and non-copying
- Law enforcement guidance
- Hearing date no later than 7 days absent consent
- Security determined by court

Seizure Requirements and Protections

- Protecting target from publicity
- Materials seized within the custody of the Court
- Law enforcement rule
 - Appointment of neutral expert
 - Non-disclosure agreement
- Court hearing
 - Burden of proof
 - Motion to dissolve or modify Order
- Damages for wrongful or excess seizure
 - Recover damages, punitive damages, reasonable attorney's fees
- Motion to encrypt any seized materials

SECTION 07

**STRONGER TRADE
SECRET PROTECTIONS
DURING LITIGATION**

Stronger Litigation Procedures

- **Challenge:** How to protect trade secrets during civil or criminal litigation?
- Cal. Civ. Code § 3426.5
 - Court “shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.”
- Fed. R. Civ. Proc. 26(c)(1)(G)
 - Protective orders available to protect trade secrets from being revealed or being revealed only in specific ways

Stronger Litigation Protections

- **Challenge:** How to protect trade secrets during civil or criminal litigation?
- DTSA stronger protections:
 1. A protective order and “such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets.”
 2. New rights for trade secret owners: A court may not authorize the disclosure of trade secret information “unless the court allows the owner the opportunity to file a submission under seal that describes the interest of the owner in keeping the information confidential.”
 3. Motion for encryption
 4. Interlocutory appeal for review of an adverse disclosure ruling by a court based on the EEA in criminal cases.

SECTION 08

WHISTLEBLOWER AND IMMUNITY

Important Protections for Whistleblowers

- Congress specifically protected certain whistleblower activities from criminal or civil liability
 - Reporting suspected violations of law
 - Employee retaliation lawsuits
- “Employee” defined to include “any individual performing work as a contractor or consultant for an employer”

Suspected Violations of Law

- Reporting or investigating suspected legal violation
- Federal, state, or local government officials, or own attorney
- Disclosure in confidence
- No civil or criminal liability!

Employee Retaliation Lawsuits

- Employee retaliation lawsuit after employee properly reports suspected legal violation
 - May disclose to own attorney
 - File all court documents containing trade secret under seal
 - Do not disclose trade secret unless pursuant to court order

Notice Requirement

- Notice of the whistleblower immunity must be provided to employees, contractors and consultants in their contracts “governing the use of a trade secret or other confidential information” or a relevant “policy document”
 - Does not apply to contracts entered before 5/11/2016
- Consequence for failure to comply
 - No exemplary damages
 - No attorney fees for a federal misappropriation claim
 - Possibly other consequences?

The Notice Requirement – 18 U.S.C. § 1833(b)(3)

(3) NOTICE.—

(A) IN GENERAL.—An employer shall provide notice of the immunity set forth in this subsection in any contract or agreement with an employee that governs the use of a trade secret or other confidential information.

(B) POLICY DOCUMENT.—An employer shall be considered to be in compliance with the notice requirement in subparagraph (A) if the employer provides a **cross-reference** to a **policy document provided to the employee that sets forth the employer's reporting policy for a suspected violation of law**.

...

(D) APPLICABILITY.—This paragraph shall apply to **contracts and agreements that are entered into or updated after** the date of enactment of this subsection.

How To Comply With The Notice Requirement

- Include the following language in all agreements with employees, consultants, and contractors:

Notice of Immunity For Confidential Disclosure Of A Trade Secret To An Attorney, The Government Or In A Court Filing In Particular Circumstances

Federal law provides certain protections to individuals who disclose a trade secret to their attorney, a court, or a government official in certain, confidential circumstances. Specifically, federal law provides that an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret under either of the following conditions:

Where the disclosure is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or

Where the disclosure is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. *See* 18 U.S.C. § 1833(b)(1)).

Federal law also provides that an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order. *See* 18 U.S.C. § 1833(b)(2).

SECTION 09

ENHANCED CRIMINAL PENALTIES AND RICO

Enhanced Criminal Penalties and RICO

- Maximum criminal penalty for an organization: greater of \$5 million or 3 times the value of the trade secret to the organization
 - Trade secret's value includes: research, design, and other reproduction costs that the organization avoided through the theft
- Foreign economic espionage and the criminal theft of trade secrets are now predicate offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO)

SECTION 10

NEW REPORTS

Two New Mandated Reports

1. **Attorney General** *Biannual Report on the Theft of Trade Secrets Occurring Abroad*

- The scope and breadth of theft from abroad faced by United States companies
- The extent that such foreign trade secret theft is sponsored by foreign governments, agents, or instrumentalities
- The threat posed by foreign trade secret theft
- Among other areas of focus

2. **Federal Judicial Center** *Best Practices Report*

- Within two years of enactment
- Seizure and media storage of information
- Securing of information once it has been seized

SECTION 11

PRACTICAL STEPS TO TAKE NOW

Next Steps

- Review and update contracts and policies
- Review reasonable measures
- Develop “trade secret theft” plan
- Summary of trade secret remedy options



Review Contracts and Policies

- Identify trade secrets
- Review contracts and policies & update if necessary
 - Understand what procedures are set up in contracts for keeping information confidential between partners
 - Ensure your employees adhere to them
 - Beware contract provisions that “everything” shared between parties is confidential
 - Are you setting yourself up for a trade secrets misappropriation claim?
 - Are your other IP policies in line with your trade secrets policies?
 - Will you seek patent protection for your trade secret?
 - Are you following US Copyright Office procedures for registering programs with trade secrets?

Protecting Trade Secrets

- Trade secret protection policies
 - Create a policy to establish discipline around protection of confidential information
 - Periodically review the policy to confirm that it adequately reflects and protects the business
 - Identify categories of confidential information created and maintained, and determine levels of protection that match the importance of the confidential information and the risk of theft
 - Agreements
 - Educate
 - Employees, contractors
 - Management, officers, directors

Confirm Reasonable Measures

- Train managers to enforce confidentiality policies consistently
- Conduct periodic refresher courses
 - Signed re-affirmation of confidentiality obligations
- Identify reasonable steps to monitor compliance with confidentiality obligations and to secure confidential information
 - Low-tech and high-tech tools tailored to the type of confidential information and the risk of loss:
 - Security badges, locked and limited physical access, sign-in/sign-out for visitors, security systems, physical and electronic restrictions on computers and networks, network monitoring, email traffic monitoring, etc.

Develop “Trade Secret Theft” Plan

- Internal procedures and policies
 - Identify risks and threats to trade secret theft and loss
 - Insiders
 - Competitors
 - Cyber espionage
 - Implement tailored safeguards
 - Limit access on need to know basis
 - Periodic audits of policies and procedures
 - Training and reinforcement
 - Trade secret protection culture
- Role of attorney-client privilege
 - Vendors
- Preserving evidence
 - Securing former employee data and information
 - Forensics
- Exit plan for employees
- Exit interview
 - Key phase to reinforce confidentiality and nondisclosure terms
- Identify and address other unique issues

Summary of Trade Secret Remedy Options

Federal Remedies

- Economic Espionage Act
 - Foreign Economic Espionage (Section 1831)
 - Trade Secret Theft (Section 1832)
- Defend Trade Secrets Act
 - Federal Civil Private Right of Action (Section 1836(b))

State Law Remedies

- California Uniform Trade Secrets Act (CUTSA)
 - Cal. Civil Code §§ 3426 to 3426.11
- California Penal Code § 499c (criminal theft of trade secrets)
- Uniform Trade Secrets Act (UTSA)

QUESTIONS?

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Presenter: Mark Krotoski



- Litigation partner in Morgan Lewis's Privacy and Cybersecurity and Antitrust practices.
- Served as the National Coordinator for the Computer Hacking and Intellectual Property (CHIP) Program in the Department of Justice (DOJ) in Washington, D.C., and as a CHIP prosecutor in Silicon Valley, among other DOJ leadership positions.
- Successfully led prosecutions and investigations of nearly every type of international and domestic computer intrusion, cybercrime, and criminal intellectual property cases
- Served as a DOJ leader on foreign economic espionage cases involving the theft of trade secrets with the intent to benefit a foreign government. He and his team successfully prosecuted two foreign economic espionage cases out of eleven that have been authorized by DOJ since 1996.
- Advises clients on developing effective Cybersecurity and Trade Secret Protection Plans and assists them in responding to a data breach incident or misappropriation of trade secrets. He has written extensively on these issues.

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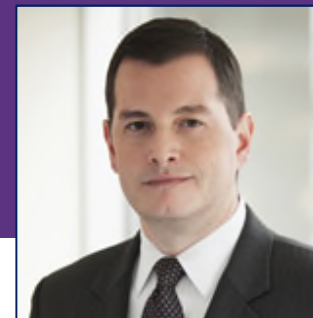
Presenter: Chris Banks



- Chris Banks is an experienced trial lawyer who helps companies from startups to the Fortune 500 solve problems concerning technology development and licensing agreements, founders' and employment disputes, intellectual property rights and allegedly unfair business practices.
- His accomplishments include serving as lead trial counsel for Japanese pharmaceutical company Asahi Kasei Pharma Corp. in a lawsuit that resulted in 2011's largest contested jury verdict in the United States. In 2014, he helped uphold that judgment on appeal, with Asahi recovering more than \$523 million.
- Chris was named an Attorney of the Year by *The Recorder* in 2011, to the "Winning Litigators Hot List" by the *National Law Journal* in 2012, one of the 20 best attorneys in California under 40 by the *Daily Journal* in 2013, and a "Super Lawyer" by *Northern California Super Lawyers*.

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Presenter: John Gorman



- With nearly 20 years of experience, John Gorman is the Leader of Morgan Lewis's Intellectual Property disputes practice and serves as the partner in charge of training for Morgan Lewis's litigation practice.
- He works with a diverse group of clients, from global corporations to nonprofits, facing complex commercial disputes and intellectual property litigation.
- John handles all phases of litigation from inception through trial and post-trial appeals, including cases involving trade secret, patent, trademark, and copyright disputes in federal and state courts throughout the United States.
- His cases involve various consumer and industrial products including medical devices, computers, mobile devices, industrial tools, lighting systems, academic standardization tests, wireless products, and automatic fire protection equipment

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Presenter: Greta Burkholder



- Greta L. Burkholder represents clients in healthcare, financial services publishing, and other industries in criminal and civil cases involving price-fixing and monopolization allegations. She also conducts sensitive internal investigations.
- Because the US Department of Justice and the US Federal Trade Commission have antitrust oversight, Greta represents clients before these agencies when negotiating mergers, acquisitions, and joint venture transactions. She also helps clients respond when those agencies submit Requests for Additional Information and Documentary Materials (Second Requests).
- Greta is a licensed patent attorney.

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