

What Federal Laws Protect Trade Secrets?



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10/02/2024

In the world of business, safeguarding your company's valuable information is crucial to maintaining a competitive edge. One of the most important assets a company can have is its trade secrets. But what exactly are trade secrets, and how do they differ from other types of confidential information? Understanding this distinction and knowing how to protect these assets can be vital to your business's success. In past blog posts, we have covered some [state laws](#) that protect trade secrets, but we will now explore some federal law protections.

Overview of Trade Secrets and Confidential Information

Trade secrets and confidential information are both types of proprietary information that businesses aim to keep private. They are valuable precisely because they are not publicly known. However, not all confidential information qualifies as a trade secret. The key difference lies in the level of protection afforded under the law.

Trade secrets are a subset of confidential information that meets specific criteria established by [federal statute](#), [state statute](#), or common law. For information to be legally recognized as a trade secret, it must not only be kept secret but also derive independent economic value from being unknown to others who could profit from its disclosure or use. Additionally, reasonable efforts must be made to maintain its secrecy.

Confidential information, on the other hand, is a broader category that includes any private or sensitive business information. While it can also be valuable, it generally does not receive the same level of legal protection as trade secrets unless explicitly defined and protected under a contractual agreement, such as a confidentiality or nondisclosure agreement.

The Evolution of Trade Secret Law

Historically, the protection of trade secrets was primarily governed by state law, with limited federal involvement through statutes like the [Economic Espionage Act \(EEA\)](#) and the [Computer Fraud and Abuse Act \(CFAA\)](#). However, these laws did not provide a comprehensive federal framework for trade secret protection, unlike the robust protections available for patents, trademarks, and copyrights.

This changed with the enactment of the Defend Trade Secrets Act (DTSA) in 2016. The DTSA amended the EEA to create a federal private cause of action for trade secret misappropriation. Now, a trade secret owner can file a civil lawsuit in federal court for misappropriation related to a product or service used or intended for use in interstate or foreign commerce. It's important to note that the DTSA supplements, rather than replaces, state laws, meaning businesses must still be aware of state-specific nuances in trade secret protection.

Understanding the Legal Landscape

Trade secret law can be complex, with variations from state to state. Legal analysis often hinges on a fact specific analysis, making it essential for businesses to understand both federal and state legal standards. Although they can vary, while the DTSA provides a uniform federal standard, courts often interpret state and federal trade secret laws consistently.

Businesses should be aware that merely labeling information as a “trade secret” does not automatically afford it legal protection. The law generally looks to substance over form, meaning that the label attached to something by a business is not necessarily the controlling factor. To qualify as a trade secret, information must meet the stringent criteria defined under applicable law.

Protecting Your Information

While qualifying one’s confidential information as a trade secret offers robust legal protection, confidential information that does not meet the criteria for trade secret status can still be safeguarded. This is often done through contractual rights and remedies, such as confidentiality and nondisclosure agreements. These agreements are crucial in protecting sensitive information that might not otherwise qualify as a trade secret.

In the upcoming installments of this blog series, we will go deeper into the specifics of how to identify your trade secrets, best practices for maintaining their secrecy, and the steps you should take if you believe your trade secrets have been misappropriated. Stay tuned to ensure your business’s valuable information remains protected and secure.

This content was prepared for publication with the assistance of ChatGPT.