

Table of Contents

Volume 1

PART A. TRADE SECRETS LAW OF THE UNITED STATES

CHAPTER 1. THE PUBLIC POLICIES UNDERLYING TRADE SECRET LAW

- § 1:1 The importance of trade secrets
- § 1:2 Protection for modern high technology
- § 1:3 The maintenance of commercial morality
- § 1:4 The encouragement of research and innovation
- § 1:5 The protection of the fundamental right of privacy

CHAPTER 2. THE HISTORICAL DEVELOPMENT OF TRADE SECRET CONCEPTS

- § 2:1 Introduction
- § 2:2 The early English common law
- § 2:3 The early U.S. common law
- § 2:4 The early U.S. Supreme Court cases

CHAPTER 3. THE MODERN DEFINITION OF TRADE SECRET CONCEPTS

I. IN GENERAL

- § 3:1 Introduction

II. THE FIRST RESTATEMENT OF TORTS

- § 3:2 Trade secrets defined
- § 3:3 Nontechnical secrets

III. THE RESTATEMENT OF TORTS AND THE COMMON LAW

- § 3:4 Generally

IV. RESTATEMENT THIRD, UNFAIR COMPETITION

- § 3:5 Misappropriation of trade values
- § 3:6 Definition of a trade secret
- § 3:7 —Value
- § 3:8 —Relative secrecy
- § 3:9 —Customer lists
- § 3:10 —Security precautions
- § 3:11 Misappropriation of trade secrets—Improper acquisition
- § 3:12 —Improper use or disclosure
- § 3:13 — —Use
- § 3:14 — —Public or private disclosure
- § 3:15 — —Accidental disclosure
- § 3:16 — —Knowledge
- § 3:17 Breach of confidence
- § 3:18 Employer/employee ownership
- § 3:19 Relief for misappropriation—Injunctive relief
- § 3:20 —Purpose and scope
- § 3:21 —Duration
- § 3:22 —Preliminary injunctions
- § 3:23 —Monetary relief
- § 3:24 —Measures for damages
- § 3:25 —Duration of damages
- § 3:26 —Punitive damages and attorney’s fees

V. THE RECENT U.S. SUPREME COURT DECISIONS

- § 3:27 Generally

VI. THE UNIFORM TRADE SECRETS ACT

- § 3:28 Generally
- § 3:29 States covered by the act
- § 3:30 General construction of the act
- § 3:31 Variations in state acts
- § 3:32 Non-Uniform State Acts
- § 3:33 Pleadings under the act
- § 3:34 Definition of trade secrets
- § 3:35 —Independent economic value
- § 3:36 —Not generally known or readily ascertainable
- § 3:37 — —Customer lists
- § 3:38 — —Other subject matter
- § 3:39 — —Trade secrets on the Internet
- § 3:40 Efforts to maintain secrecy
- § 3:41 Misappropriation under the Act

TABLE OF CONTENTS

- § 3:42 Relief granted under the Act—Damages
- § 3:43 —Injunctive relief
- § 3:44 —Attorney’s fees
- § 3:45 —Prejudgment interest
- § 3:46 Effective date and statute of limitations
- § 3:47 Preemption of other state laws
- § 3:48 State sovereign immunity
- § 3:49 Waiver of sovereign immunity
- § 3:50 Rights under the Act versus contract rights

CHAPTER 4. THE INITIAL ISSUES PRESENTED BY TRADE SECRET LITIGATION

I. THEORIES UNDERLYING TRADE SECRET PROTECTION

- § 4:1 The contract theory
- § 4:2 The tort theories
- § 4:3 The property theory in civil actions
- § 4:4 Criminal sanctions—Early property emphasis

II. ECONOMIC ESPIONAGE ACT

- § 4:5 Criminal sanctions—Economic Espionage Act of 1996 as amended

III. FEDERAL DEFEND TRADE SECRETS ACT

- § 4:6 Actions under the Defend Trade Secrets Act
- § 4:7 —Pleadings Under the DTSA
- § 4:8 —DTSA Definitions and Interstate requirements
- § 4:9 —Remedies—TROs and Injunctions.
- § 4:10 — —Seizures
- § 4:11 — —Damages
- § 4:12 — —Attorney’s Fees

IV. RULES GOVERNING THE CHOICE OF LAW

- § 4:13 *Erie v. Tompkins* applies
- § 4:14 Conflicts rules for contract actions
- § 4:15 Conflicts rules for tort actions
- § 4:16 Federal circuit versus regional circuit law
- § 4:17 Controlling law in the International Trade Commission

V. THE STATUTE OF LIMITATIONS

- § 4:18 Selecting the controlling law

- § 4:19 Limitations in contract actions
- § 4:20 Limitations in tort actions
- § 4:21 The doctrine of fraudulent concealment
- § 4:22 Limitations in the Uniform Trade Secrets Act
- § 4:23 Statute of Limitations in the DTSA

CHAPTER 5. ESTABLISHING A TRADE SECRET CASE

I. IN GENERAL

- § 5:1 Introduction
- § 5:2 A trade secret is a question of fact
- § 5:3 The burden of proof is on the owner
- § 5:4 The preponderance of the evidence test applies

II. ELEMENTS OF PROOF IN A TRADE SECRET CASE

- § 5:5 Judicial tests for trade secrets
- § 5:6 Trade secret ownership
- § 5:7 Use by the owner
- § 5:8 Acquisition, disclosure, or use by the accused
- § 5:9 —Procurement by proper or improper means
- § 5:10 —Independent development or reverse engineering
- § 5:11 —Readily ascertainable information
- § 5:12 —Trade secret postings on Internet
- § 5:13 —Duty against disclosure or use

III. PROVING THE EXISTENCE OF A TRADE SECRET

- § 5:14 Generally
- § 5:15 Relative secrecy
- § 5:16 Reasonable secrecy precautions—Security programs
- § 5:17 —Confidential drawing legends
- § 5:18 —Security checklist
- § 5:19 —Record keeping
- § 5:20 —Physical security
- § 5:21 —Confidentiality agreements
- § 5:22 —Vendor and supplier agreements
- § 5:23 —Confidential stamps and legends
- § 5:24 —Computer security
- § 5:25 —Entrance interviews
- § 5:26 —Exit interviews
- § 5:27 Novelty
- § 5:28 —Compilation of known elements

TABLE OF CONTENTS

- § 5:29 —Common public knowledge
- § 5:30 Concreteness
- § 5:31 Value

IV. TREATMENT OF TRADE SECRETS IN LITIGATION

- § 5:32 Identification of trade secrets
- § 5:33 Disclosure under protective orders
- § 5:34 Treatment in related lawsuits
- § 5:35 Disclosure in discovery or at trial
- § 5:36 Disclosure in court records
- § 5:37 Disclosure of state secrets
- § 5:38 Pleadings and jury instructions
- § 5:39 The Fifth Amendment privilege in civil suits
- § 5:40 Long arm jurisdiction
- § 5:41 Federal question jurisdiction
- § 5:42 Venue in Federal Courts
- § 5:43 Jurisdiction over foreign government entities
- § 5:44 U.S. discovery for use in foreign suits
- § 5:45 Section 43(a) of the Lanham Act
- § 5:46 Insurance coverage for fees
- § 5:47 Trial by jury
- § 5:48 Expert Testimony
- § 5:49 Waiver of sovereign immunity

V. PROTECTION FOR NON-SECRET INFORMATION

- § 5:50 Generally

CHAPTER 6. TERMINATION OF TRADE SECRETS

I. IN GENERAL

- § 6:1 Introduction

II. IN EMPLOYEE/EMPLOYER SITUATIONS

- § 6:2 Generally

III. IN NONEMPLOYEE SITUATIONS

- § 6:3 Generally

IV. BY DISCLOSURE IN PATENTS, PUBLICATIONS, OR PUBLIC USE

- § 6:4 Publicly available products

- § 6:5 Copyrighted publications
- § 6:6 Issued patents
- § 6:7 Postings on the Internet

V. THE EFFECT OF TERMINATION

- § 6:8 Generally
- § 6:9 The *Shellmar* rule
- § 6:10 The *Conmar* rule

Volume 2

CHAPTER 7. REMEDIES IN TRADE SECRET LITIGATION

I. SIMULTANEOUS INJUNCTIVE AND MONETARY RELIEF

- § 7:1 Generally

II. INJUNCTIVE RELIEF

- § 7:2 Generally
- § 7:3 Temporary restraining orders
- § 7:4 Preliminary injunctions
 - § 7:5 —Irreparable harm
 - § 7:6 — —Inevitability doctrine
 - § 7:7 — —Presumption of harm
 - § 7:8 —Likelihood of success
 - § 7:9 —Balance of hardships and the public interest
 - § 7:10 —Necessary proofs
 - § 7:11 —Bonds
- § 7:12 Permanent injunctions
 - § 7:13 —Perpetual injunctions
 - § 7:14 —Limited injunctions
- § 7:15 Scope of injunctions—Subject matter
- § 7:16 —Parties
- § 7:17 —Territory
- § 7:18 Restatement (Third) of Unfair Competition

III. DAMAGES

- § 7:19 Tort versus contract damages
- § 7:20 Compensatory damages—For trade secret use
 - § 7:21 —Reasonable royalty
 - § 7:22 —For use of non-secret information
- § 7:23 Restatement (Third) of Unfair Competition

TABLE OF CONTENTS

- § 7:24 Punitive damages
- § 7:25 Interest
- § 7:26 Vicarious liability

IV. ATTORNEYS' FEES

- § 7:27 Generally

V. SEIZURE OR RETURN OF STOLEN TRADE SECRETS

- § 7:28 Return of property incorporating trade secret

VI. INSURANCE COVERAGE

- § 7:29 Insurance issues related to misappropriation

CHAPTER 8. THE OWNERSHIP RIGHTS TO TRADE SECRETS

I. DISCLOSURES DURING EMPLOYMENT

- § 8:1 Common law title
- § 8:2 Conditions of disclosure
- § 8:3 —Ideas after termination
- § 8:4 —Employee patent acts
- § 8:5 —Common law
- § 8:6 Use of general knowledge and skills
- § 8:7 Acts in anticipation of competition

II. SUBMISSION OF IDEAS BY EMPLOYEES

- § 8:8 Submissions of ideas
- § 8:9 Suggestion programs
- § 8:10 Ad hoc submissions

III. SUBMISSION OF IDEAS BY NONEMPLOYEES

- § 8:11 Generally

CHAPTER 9. TRADE SECRET PROTECTION FOR COMPUTER TECHNOLOGY

I. EARLY COMPUTER DEVELOPMENTS

- § 9:1 Generally

II. COMPUTER SYSTEMS AS TRADE SECRETS

- § 9:2 Hardware

- § 9:3 Software—Protection available
- § 9:4 —Combination of known elements
- § 9:5 —Secrecy
- § 9:6 —Misappropriation
- § 9:7 —Security precautions
- § 9:8 —Trade secret identification
- § 9:9 —Copyright preemption
- § 9:10 Shrinkwrap laws

III. COMPUTER SOURCE CODES VERSUS OBJECT CODES

- § 9:11 Generally
- § 9:12 Computer code as free speech

IV. SOFTWARE DISTRIBUTION

- § 9:13 With confidential restrictions
- § 9:14 With a shrinkwrap license
- § 9:15 With a copyright notice

V. THE SEMICONDUCTOR CHIP PROTECTION ACT OF 1984

- § 9:16 Historical background
- § 9:17 The scope of the act
- § 9:18 Trade secret law preemption

VI. THE COMPUTER FRAUD AND ABUSE ACT

- § 9:19 Improper access of computers

CHAPTER 10. TRADE SECRET INTERFACE WITH PATENT AND COPYRIGHT LAWS

I. IN GENERAL

- § 10:1 Introduction

II. TRADE SECRETS AND THE PATENT LAW

- § 10:2 The preemption issue
- § 10:3 Conflicts between first inventors
- § 10:4 Submissions to the patent and trademark office
- § 10:5 Public versus secret use
- § 10:6 The patent exhaustion doctrine

III. TRADE SECRETS AND THE COPYRIGHT LAW

- § 10:7 The preemption issue revisited

TABLE OF CONTENTS

§ 10:8 Copyright notice and registration

CHAPTER 11. TRADE SECRETS AND THE ANTITRUST LAWS

I. IN GENERAL

§ 11:1 Introduction

II. TRADE SECRET VERSUS PATENT ATTRIBUTES

§ 11:2 Generally

III. SECRECY AGREEMENTS AS RESTRAINTS OF TRADE

§ 11:3 Generally

IV. TRADE SECRET LICENSING RESTRICTIONS

§ 11:4 Generally

§ 11:5 Product price restraints

§ 11:6 Territorial restraints

§ 11:7 Duration of contracts and royalties

§ 11:8 Quantity and field of use restrictions and exclusive dealing

§ 11:9 Grantback provisions

§ 11:10 Tying agreements

V. CONSPIRACIES AND MONOPOLIES

§ 11:11 Generally

VI. U.S. DEPARTMENT OF JUSTICE AND FTC 1995 GUIDELINES

§ 11:12 Background

VII. U.S. DEPARTMENT OF JUSTICE ANTITRUST ENFORCEMENT 1988 GUIDELINES

§ 11:13 Background

§ 11:14 Justice department analysis

§ 11:15 Intellectual property licensing

CHAPTER 12. TRADE SECRETS AND THE FREEDOM OF INFORMATION ACT

I. IN GENERAL

§ 12:1 Public policy and the general scheme of FOIA

- § 12:2 Damaging disclosure of private information
- § 12:3 Exemption 3 and the Trade Secrets Act (18 U.S.C.A. § 1905)

II. THE SCOPE OF EXEMPTION 4

- § 12:4 Generally
- § 12:5 Trade secrets
- § 12:6 —Restatement or Uniform Acts followed
- § 12:7 —Restatement or Uniform Acts rejected
- § 12:8 Confidential commercial or financial information
- § 12:9 —Impairment of government functions
- § 12:10 —Substantial competitive harm

III. THE DECISION IN CHRYSLER CORP. V. BROWN

- § 12:11 Generally

IV. POST-CHRYSLER FOIA LAW

- § 12:12 Permissive FOIA exemptions
- § 12:13 The Trade Secrets Act (18 U.S.C.A. § 1905)
- § 12:14 Exemption 3 and Section 1905
- § 12:15 Exemption 4 and Section 1905
- § 12:16 “Authorized by law” under Section 1905
- § 12:17 Reverse FOIA suits
- § 12:18 Motion to intervene in FOIA suits

CHAPTER 13. TRADE SECRETS AND RESTRICTIVE COVENANTS

- § 13:1 Introduction
- § 13:2 Restrictive covenants vs. confidentiality agreements
- § 13:3 —Confidentiality agreements
- § 13:4 —Restrictive covenants
- § 13:5 As a condition of employment
- § 13:6 Choice-of-law rules
- § 13:7 Reasonable in time, area and subject matter
- § 13:8 Partial enforcement
- § 13:9 Protectable business interests
- § 13:10 Relief granted for breach

CHAPTER 14. TAXATION OF TRADE SECRETS

I. TRADE SECRETS AS TAXABLE PROPERTY

- § 14:1 The Tax Reform Act of 1986

TABLE OF CONTENTS

§ 14:2 The Supreme Court definition

§ 14:3 The IRS definition

II. THE TAXATION OF TRADE SECRETS

§ 14:4 Ordinary income treatment

§ 14:5 Capital gains treatment

III. THE TAXATION OF PATENTS

§ 14:6 Generally

§ 14:7 Capital gains treatment under Section 1221

§ 14:8 Capital gains treatment under Section 1235

IV. RESEARCH AND EXPERIMENTATION DEDUCTIONS

§ 14:9 Section 174(a) current expense

§ 14:10 Section 174(b) amortization

§ 14:11 Computer software costs

V. RESEARCH AND EXPERIMENTATION CREDIT

§ 14:12 Generally

VI. STATE TAXATION

§ 14:13 Generally

CHAPTER 15. TRADE SECRET LICENSING

§ 15:1 License interpretation

§ 15:2 Selection of controlling law

§ 15:3 Conflicts with the patent and antitrust laws

§ 15:4 The pure trade secret license—State contract law controls

§ 15:5 —Before termination

§ 15:6 —After termination

§ 15:7 The pure patent license

§ 15:8 Hybrid patent and trade secret licenses

§ 15:9 Drafting considerations for hybrid licenses

§ 15:10 Software licensing agreements

§ 15:11 —Shrinkwrap licenses

§ 15:12 —General provisions

§ 15:13 —Confidentiality provisions

CHAPTER 16. GOVERNMENT REGULATION OF TRADE SECRET LICENSING

I. U.S. DEPARTMENT OF JUSTICE LICENSING GUIDELINES

A. THE 1988 GUIDELINES

- § 16:1 Background
- § 16:2 The 1988 justice department analysis
- § 16:3 Treatment of license agreements
- § 16:4 Know-how licensing situations

B. THE 1995 JUSTICE DEPARTMENT AND FTC GUIDELINES

- § 16:5 Background
- § 16:6 Agency analysis
- § 16:7 The rule of reason
- § 16:8 The antitrust safety zone
- § 16:9 Application of principles
- § 16:10 Invalid patent rights

II. JAPANESE GUIDELINES FOR THE REGULATION OF UNFAIR TRADE PRACTICES WITH RESPECT TO PATENT AND KNOW-HOW LICENSE AGREEMENTS

- § 16:11 Background
- § 16:12 FTC clearance procedures
- § 16:13 Analysis of know-how license agreements
- § 16:14 —Acceptable restrictions
- § 16:15 —Questionable restrictions
- § 16:16 —Unacceptable restrictions

III. EEC BLOCK EXEMPTION REGULATIONS

- § 16:17 Background
- § 16:18 Burden of notification
- § 16:19 The exhaustion of monopoly doctrine
- § 16:20 The 1985 patent block exemptions
- § 16:21 —The 1985 article 1—The white list of basic provisions
- § 16:22 —The 1985 article 2—The extended white list
- § 16:23 —The 1985 article 3—The black list
- § 16:24 The 1989 know-how block exemptions
- § 16:25 —The 1989 article 1—The white list of basic provisions

TABLE OF CONTENTS

- § 16:26 —The 1989 article 2—The extended white list
- § 16:27 —The 1989 article 3—The black list
- § 16:28 The 1996 combined patent and know-how block exemptions—Background
- § 16:29 —The 1996 article 1—The white list of basic provisions
- § 16:30 —The 1996 article 2—The extended white list
- § 16:31 —The 1996 article 3—The black list

IV. PROTECTION OF TRADE SECRETS IN GERMANY

- § 16:32 Background
- § 16:33 Act against Unfair Competition (UWG)
- § 16:34 German Civil Code (BGB)
- § 16:35 Non-Disclosure Agreements
- § 16:36 Trade Secrets Directive

CHAPTER 17. ASIAN TRADE SECRETS LAWS

I. IN GENERAL

- § 17:1 Introduction
- § 17:2 General trade secret protection

II. SPECIFIC TRADE SECRET PROVISIONS

- § 17:3 Common provisions
- § 17:4 Provisions that vary by nation
- § 17:5 Varying trade secret remedies
- § 17:6 Attorney's fees awards
- § 17:7 Criminal law provisions
- § 17:8 Varying treatment of technology licenses

III. SUMMARY OF LAWS

- § 17:9 Generally

PART B. TRADE SECRET LAWS OF SELECTED STATES

CHAPTER 18. THE TRADE SECRETS LAW OF ALABAMA

- § 18:1 The Alabama Trade Secrets Act
- § 18:2 Common-law definitions

- § 18:3 Statute of limitations
- § 18:4 Remedies
- § 18:5 Restrictive covenants

CHAPTER 19. THE TRADE SECRETS LAW OF ALASKA

- § 19:1 The Alaska Trade Secrets Act
- § 19:2 Restrictive covenants
- § 19:3 Protection for ideas

CHAPTER 20. THE TRADE SECRETS LAW OF ARIZONA

- § 20:1 The Arizona Trade Secrets Act
- § 20:2 Common-law definitions
- § 20:3 Restrictive covenants

CHAPTER 21. THE TRADE SECRETS LAW OF ARKANSAS

- § 21:1 The Arkansas Trade Secrets Act
- § 21:2 Common-law definitions
- § 21:3 Restrictive covenants

CHAPTER 22. THE TRADE SECRETS LAW OF CALIFORNIA

- § 22:1 Statutory definitions—Trade secrets
- § 22:2 —Misappropriation
- § 22:3 —Statute of limitations
- § 22:4 —Injunctive relief
- § 22:5 —Damages
- § 22:6 —Attorney's fees
- § 22:7 —Preemption
- § 22:8 Common-law definitions
- § 22:9 —Restatement Section 757
- § 22:10 —Novelty requirements
- § 22:11 —Property rights
- § 22:12 —Fiduciary obligations
- § 22:13 —Delivery routes and customer lists
- § 22:14 —Choice-of-law rules
- § 22:15 —Remedies
- § 22:16 Pleadings and trial
- § 22:17 Long-arm jurisdiction—Internet postings
- § 22:18 Statute of limitations
- § 22:19 Other common-law actions
- § 22:20 Restrictive covenants—Contract interpretation

TABLE OF CONTENTS

- § 22:21 —Business and Professions Code Section 16600
- § 22:22 Invention agreements
- § 22:23 Trade secret licenses and agreements
- § 22:24 Criminal statutes
- § 22:25 Insurance coverage

**CHAPTER 23. THE TRADE SECRETS LAW
OF COLORADO**

- § 23:1 The Colorado Trade Secrets Act
- § 23:2 The statute of limitations
- § 23:3 Common-law definitions
- § 23:4 Restrictive covenants

**CHAPTER 24. THE TRADE SECRETS LAW
OF CONNECTICUT**

- § 24:1 The Connecticut Trade Secrets Act
- § 24:2 Common-law definitions
- § 24:3 Restrictive covenants

**CHAPTER 25. THE TRADE SECRETS LAW
OF THE DISTRICT OF COLUMBIA**

- § 25:1 The Uniform Trade Secrets Act

**CHAPTER 26. THE TRADE SECRETS LAW
OF DELAWARE**

- § 26:1 The Delaware Trade Secrets Act
- § 26:2 Common-law definitions
- § 26:3 Choice of law
- § 26:4 Restrictive covenants

Volume 3

**CHAPTER 27. THE TRADE SECRETS LAW
OF FLORIDA**

- § 27:1 The Uniform Trade Secrets Act
- § 27:2 Common-law definitions
- § 27:3 Elements of proof
- § 27:4 Protection for original ideas
- § 27:5 Nontechnical information
- § 27:6 Remedies
- § 27:7 —Injunctive relief
- § 27:8 — —Preliminary injunctions
- § 27:9 — —Preliminary injunction bonds

- § 27:10 —Damages—Legal damages
- § 27:11 — —Attorney’s fees
- § 27:12 Statute of limitations
- § 27:13 Privilege and discovery—Privilege
- § 27:14 —Discovery
- § 27:15 Restrictive covenants—Public policy
- § 27:16 —Contract construction
- § 27:17 —Rules of enforcement
- § 27:18 —Protectable interest
- § 27:19 —Rules of assignability
- § 27:20 —Injunctive relief
- § 27:21 — —Before the 1990 amendment
- § 27:22 — —After the 1990 and 1996 amendments
- § 27:23 —Damages
- § 27:24 —Choice of law rule
- § 27:25 —CHOICE Act (effective July 1, 2025)
- § 27:26 Unfair competition
- § 27:27 Freedom of information law

CHAPTER 28. THE TRADE SECRETS LAW OF GEORGIA

- § 28:1 The Uniform Trade Secrets Act
- § 28:2 Common-law definitions
- § 28:3 Restrictive covenants

CHAPTER 28A. THE TRADE SECRETS LAW OF GUAM

- § 28A:1 The Common Law controls
- § 28A:2 Restrictive covenants

CHAPTER 29. THE TRADE SECRETS LAW OF HAWAII

- § 29:1 The Uniform Trade Secrets Act
- § 29:2 Long-arm jurisdiction
- § 29:3 Restrictive covenants

CHAPTER 30. THE TRADE SECRETS LAW OF IDAHO

- § 30:1 The Uniform Trade Secrets Act
- § 30:2 Restrictive covenants

CHAPTER 31. THE TRADE SECRETS LAW OF ILLINOIS

- § 31:1 The Illinois Trade Secrets Act

TABLE OF CONTENTS

§ 31:2	—Differences between the Illinois and Uniform Acts
§ 31:3	—“Improper means” excludes reverse engineering and independent development
§ 31:4	—“Persons” covers profit and nonprofit entities
§ 31:5	—Nontechnical business information is covered
§ 31:6	—Relative secrecy is emphasized
§ 31:7	—“Readily ascertainable” was dropped from the trade secret definition
§ 31:8	—Misappropriation
§ 31:9	—Injunctive rights are granted
§ 31:10	—Damages are recoverable—Compensatory damages
§ 31:11	— —Punitive damages
§ 31:12	— —Prejudgment interest
§ 31:13	—Attorney’s fees may be awarded
§ 31:14	— <i>Disher</i> and its progeny are overruled
§ 31:15	—Preemption of other causes of action
§ 31:16	—Sufficiency of pleadings
§ 31:17	—Statute of limitations
§ 31:18	Common law definition of trade secrets
§ 31:19	Public policies underlying trade secret protection
§ 31:20	Requirements for proving a trade secret
§ 31:21	Nontechnical business information
§ 31:22	Common law misappropriation and breach of fiduciary obligations
§ 31:23	<i>Disher</i> and its progeny
§ 31:24	Restrictive covenants—General rules
§ 31:25	—Protectable interest
§ 31:26	—Time, territorial, and activity limits
§ 31:27	—Consideration
§ 31:28	—Contract stipulations
§ 31:29	—Partial enforcement
§ 31:30	Choice-of-law rules

CHAPTER 32. THE TRADE SECRETS LAW OF INDIANA

§ 32:1	The Uniform Trade Secrets Act
§ 32:2	Common-law definitions
§ 32:3	Criminal sanctions
§ 32:4	Restrictive covenants

CHAPTER 33. THE TRADE SECRETS LAW OF IOWA

§ 33:1	The Uniform Trade Secrets Act
§ 33:2	Common-law definitions
§ 33:3	Restrictive covenants

CHAPTER 34. THE TRADE SECRETS LAW OF KANSAS

- § 34:1 The Uniform Trade Secrets Act
- § 34:2 Preemption by the Copyright Act
- § 34:3 Common-law definitions
- § 34:4 License agreements
- § 34:5 Restrictive covenants

CHAPTER 35. THE TRADE SECRETS LAW OF KENTUCKY

- § 35:1 The Uniform Trade Secrets Act
- § 35:2 Common-law definitions
- § 35:3 Restrictive covenants

CHAPTER 36. THE TRADE SECRETS LAW OF LOUISIANA

- § 36:1 The Uniform Trade Secrets Act
- § 36:2 Common-law definitions
- § 36:3 Criminal sanctions
- § 36:4 Restrictive covenants

CHAPTER 37. THE TRADE SECRETS LAW OF MAINE

- § 37:1 The Uniform Trade Secrets Act
- § 37:2 Restrictive covenants

CHAPTER 38. THE TRADE SECRETS LAW OF MARYLAND

- § 38:1 Maryland Uniform Trade Secrets Act
- § 38:2 Trade secrets common law
- § 38:3 Remedies
- § 38:4 Restrictive covenants
- § 38:5 Maryland Public Information Act (MPIA)

CHAPTER 39. THE TRADE SECRETS LAW OF MASSACHUSETTS

- § 39:1 Trade secrets statute
- § 39:2 Statute of limitations
- § 39:3 Historical common-law developments
- § 39:4 Modern common law
- § 39:5 Remedies
- § 39:6 Criminal penalties
- § 39:7 Restrictive covenants

TABLE OF CONTENTS

**CHAPTER 40. THE TRADE SECRETS LAW
OF MICHIGAN**

- § 40:1 The Uniform Trade Secrets Act
- § 40:2 Common-law definitions
- § 40:3 Remedies
- § 40:4 Restrictive covenants

**CHAPTER 41. THE TRADE SECRETS LAW
OF MINNESOTA**

- § 41:1 The Uniform Trade Secrets Act
- § 41:2 Long-arm jurisdiction
- § 41:3 Common-law definitions
- § 41:4 Restrictive covenants

**CHAPTER 42. THE TRADE SECRETS LAW
OF MISSISSIPPI**

- § 42:1 The Uniform Trade Secrets Act
- § 42:2 Common-law definitions
- § 42:3 Restrictive covenants

**CHAPTER 43. THE TRADE SECRETS LAW
OF MISSOURI**

- § 43:1 The Uniform Trade Secrets Act
- § 43:2 Preemption and Choice of Law
- § 43:3 Long Arm Statute
- § 43:4 Trade secrets as property
- § 43:5 Common law—Restatement Section 757
- § 43:6 —Secrecy
- § 43:7 —Confidential relationships
- § 43:8 Remedies
- § 43:9 —Preliminary injunctions
- § 43:10 —Limited permanent injunctions
- § 43:11 —Damages
- § 43:12 Restrictive covenants

**CHAPTER 44. THE TRADE SECRETS LAW
OF MONTANA**

- § 44:1 The Uniform Trade Secrets Act
- § 44:2 Restrictive covenants

**CHAPTER 45. THE TRADE SECRETS LAW
OF NEBRASKA**

- § 45:1 The Uniform Trade Secrets Act

- § 45:2 Common-law definitions
- § 45:3 Restrictive covenants

CHAPTER 46. THE TRADE SECRETS LAW OF NEVADA

- § 46:1 The Uniform Trade Secrets Act
- § 46:2 Restrictive covenants

CHAPTER 47. THE TRADE SECRETS LAW OF NEW HAMPSHIRE

- § 47:1 The Uniform Trade Secrets Act
- § 47:2 Common law
- § 47:3 Restrictive covenants

CHAPTER 48. THE TRADE SECRETS LAW OF NEW JERSEY

- § 48:1 New Jersey Trade Secrets Act
- § 48:2 Common-law definitions
- § 48:3 Elements of proof
- § 48:4 Choice-of-law rule
- § 48:5 Preemption by the copyright law
- § 48:6 Nontechnical information
- § 48:7 Remedies
- § 48:8 —Injunctive relief—Preliminary injunctions
- § 48:9 — —Injunction specificity
- § 48:10 — —Permanent injunctions
- § 48:11 —Damages
- § 48:12 Discovery
- § 48:13 Invention agreements
- § 48:14 Restrictive covenants—Public policy
- § 48:15 —Contract construction
- § 48:16 —Rules of enforcement
- § 48:17 —Protectable interest
- § 48:18 —Injunctive relief
- § 48:19 —Choice of law rule
- § 48:20 Criminal penalties
- § 48:21 Unfair competition
- § 48:22 Freedom of information law

CHAPTER 49. THE TRADE SECRETS LAW OF NEW MEXICO

- § 49:1 The Uniform Trade Secrets Act
- § 49:2 Common-law definitions
- § 49:3 Restrictive covenants

TABLE OF CONTENTS

**CHAPTER 50. THE TRADE SECRETS LAW
OF NEW YORK**

- § 50:1 Common law definitions
- § 50:2 Elements of proof
- § 50:3 —Relative secrecy
- § 50:4 —Security precautions
- § 50:5 Protection for original ideas
- § 50:6 Preemption by the copyright law
- § 50:7 Nontechnical information
- § 50:8 Computer programs
- § 50:9 Remedies—Injunctive relief—Preliminary injunctions
- § 50:10 — —Preliminary injunction bonds
- § 50:11 — —Permanent injunctions
- § 50:12 —Damages
- § 50:13 Jurisdiction
- § 50:14 Choice of law rules
- § 50:15 Discovery and trial
- § 50:16 Restrictive covenants—Public policy
- § 50:17 —Contract construction
- § 50:18 —Rules of enforcement
- § 50:19 —Remedies
- § 50:20 Unfair competition
- § 50:21 Freedom of information law

**CHAPTER 51. THE TRADE SECRETS LAW
OF NORTH CAROLINA**

- § 51:1 The North Carolina Trade Secrets Act
- § 51:2 Restrictive covenants
- § 51:3 Invention agreements

**CHAPTER 52. THE TRADE SECRETS LAW
OF NORTH DAKOTA**

- § 52:1 The North Dakota Trade Secrets Act
- § 52:2 Restrictive covenants
- § 52:3 Employee inventions and other work product

**CHAPTER 53. THE TRADE SECRETS LAW
OF OHIO**

- § 53:1 Statutory and common-law definitions
- § 53:2 Policy considerations
- § 53:3 Relative secrecy requirements
- § 53:4 Novelty requirements
- § 53:5 Elements of proof
- § 53:6 Remedies

- § 53:7 Employment contracts
- § 53:8 Restrictive covenants
- § 53:9 Statute of limitations

CHAPTER 54. THE TRADE SECRETS LAW OF OKLAHOMA

- § 54:1 The Oklahoma Trade Secrets Act
- § 54:2 Common-law definitions
- § 54:3 Remedies
- § 54:4 Long-arm jurisdiction
- § 54:5 Restrictive covenants

CHAPTER 55. THE TRADE SECRETS LAW OF OREGON

- § 55:1 Statutory and common-law definitions
- § 55:2 Common law—Confidential relationships
- § 55:3 —Elements of proof
- § 55:4 —Remedies
- § 55:5 Restrictive covenants

CHAPTER 56. THE TRADE SECRETS LAW OF PENNSYLVANIA

- § 56:1 Uniform Trade Secrets Act
- § 56:2 Common law definitions
- § 56:3 Elements of proof
- § 56:4 Nontechnical information
- § 56:5 Remedies
- § 56:6 Statute of limitations
- § 56:7 Restrictive covenants
- § 56:8 Criminal sanctions

CHAPTER 56A. THE TRADE SECRETS LAW OF PUERTO RICO

- § 56A:1 Industrial and Trade Secret Protection Act
- § 56A:2 Non-Compete Agreements

CHAPTER 57. THE TRADE SECRETS LAW OF RHODE ISLAND

- § 57:1 The Uniform Trade Secrets Act
- § 57:2 Common law definitions
- § 57:3 Common law remedies
- § 57:4 Restrictive covenants

TABLE OF CONTENTS

**CHAPTER 58. THE TRADE SECRETS LAW
OF SOUTH CAROLINA**

- § 58:1 The Uniform Trade Secrets Act
- § 58:2 Common-law definitions
- § 58:3 Restrictive covenants

**CHAPTER 59. THE TRADE SECRETS LAW
OF SOUTH DAKOTA**

- § 59:1 The Uniform Trade Secrets Act
- § 59:2 Common-law definitions
- § 59:3 Restrictive covenants

**CHAPTER 60. THE TRADE SECRETS LAW
OF TENNESSEE**

- § 60:1 The Tennessee Trade Secrets Act
- § 60:2 Common-law definitions
- § 60:3 Choice of law
- § 60:4 Restrictive covenants
- § 60:5 Remedies

**CHAPTER 61. THE TRADE SECRETS LAW
OF TEXAS**

- § 61:1 The Texas Uniform Trade Secrets Act
- § 61:2 Common-law definitions
- § 61:3 Confidential relationships
- § 61:4 Unfair competition by misappropriation
- § 61:5 Elements of proof
- § 61:6 Statute of limitations
- § 61:7 Nontechnical information
- § 61:8 Remedies
- § 61:9 Restrictive covenants
- § 61:10 Criminal statutes

**CHAPTER 62. THE TRADE SECRETS LAW
OF UTAH**

- § 62:1 The Uniform Trade Secrets Act
- § 62:2 Common-law definitions
- § 62:3 Elements of proof
- § 62:4 Remedies
- § 62:5 Exemplary damages and attorneys' fees
- § 62:6 Restrictive covenants

**CHAPTER 63. THE TRADE SECRETS LAW
OF VERMONT**

- § 63:1 Uniform Trade Secrets Act

§ 63:2 Common-law definitions

CHAPTER 64. THE TRADE SECRETS LAW OF THE VIRGIN ISLANDS

§ 64:1 The Uniform Trade Secrets Act

CHAPTER 65. THE TRADE SECRETS LAW OF VIRGINIA

§ 65:1 The Uniform Trade Secrets Act

§ 65:2 —Elements of proof

§ 65:3 —Secrecy, novelty and readily ascertainable
information

§ 65:4 —Misappropriation

§ 65:5 —Remedies

§ 65:6 —Preemption

§ 65:7 Trade secrets—Choice of law and personal jurisdiction

§ 65:8 Restrictive covenants

CHAPTER 66. THE TRADE SECRETS LAW OF WASHINGTON

§ 66:1 Washington Uniform Trade Secrets Act

§ 66:2 —Elements

§ 66:3 —Misappropriation

§ 66:4 Statute of limitations

§ 66:5 Preemption

§ 66:6 Common law definitions

§ 66:7 Remedies

§ 66:8 Restrictive covenants

CHAPTER 67. THE TRADE SECRETS LAW OF WEST VIRGINIA

§ 67:1 The Uniform Trade Secrets Act

§ 67:2 Restrictive covenants

CHAPTER 68. THE TRADE SECRETS LAW OF WISCONSIN

§ 68:1 Statutory and common-law definitions

§ 68:2 Elements of proof

§ 68:3 Nontechnical information

§ 68:4 Restrictive covenants

CHAPTER 69. THE TRADE SECRETS LAW OF WYOMING

§ 69:1 The Wyoming Uniform Trade Secrets Act

TABLE OF CONTENTS

- § 69:2 Common law definitions
- § 69:3 Remedies
- § 69:4 Jurisdiction
- § 69:5 Restrictive covenants

1979 UNIFORM TRADE SECRETS ACT

- APPENDIX A1. 1979 Uniform Trade Secrets Act: With Prefatory Note and Comments
- APPENDIX A2. State Trade Secret Statutes—Variations on the Uniform Act
- APPENDIX A3. Additional State Trade Secret Statutes: Massachusetts (Repealed), Missouri, and Ohio (Repealed)

Volume 4

SAMPLE TRADE SECRET AGREEMENTS, NOTICES, AND LIMITED LICENSES

- APPENDIX B1. Sample Employee Trade Secret Agreements
- APPENDIX B2. Sample Confidential Notices and Limited Licenses

SAMPLE SOFTWARE LICENSES

- APPENDIX C1. Sample Computer Software Trade Secret Licenses
- APPENDIX C2. Sample Software Test or Sample Package Label Licenses
- APPENDIX C3. Louisiana Software License Enforcement Act (La. Rev. Stat. Title 51, Chap. 27: §§ 1951–1956)
- APPENDIX C4. Illinois Software License Enforcement Act, Ill. Rev. Stat., Ch. 29, §§ 801–808 (1985) (effective July 1, 1986) (Repealed in 1987)

EXEMPLARY NONCONFIDENTIAL IDEA SUBMISSION CONTRACTS

- APPENDIX D. Exemplary Nonconfidential Idea Submission

Contracts Typically Used by the Recipients
of the Submission

EXEMPLARY CONFIDENTIAL IDEA SUBMISSION CONTRACTS

APPENDIX E. Exemplary Confidential Idea Submission
Contracts for Use by Submitters

TRADE SECRET THEFT AND PROTECTION STATUTES AND FOIA STATUTES AND FORMS

APPENDIX F. Trade Secret Theft and Protection Statutes
and FOIA Statutes and Forms: State
Freedom of Information Act Statutes;
Federal Trade Secrets Act (18 U.S.C.A.
§ 1905); National Stolen Property Act (18
U.S.C.A. § 2314); Federal Espionage Act (18
U.S.C.A. § 794); Federal Toxic Substances
Control Act (15 U.S.C.A. §§ 2601–2629);
Federal Mail Fraud Statute (18 U.S.C.A.
§ 1341); Federal Freedom of Information Act
(5 U.S.C.A. § 552); Approved Sample FOIA
Request Form; U.S. Justice Department
FOIA Memoranda; Federal Administrative
Procedure Act (5 U.S.C.A. §§ 701–706)

SAMPLE TRADE SECRET PLEADINGS

APPENDIX G1. Sample Trade Secret Pleadings: Complaint;
Answer; In Camera Protective Order;
Temporary Restraining Order and Bond;
Motion for Preliminary Injunction;
Plaintiffs Proposed Court’s Statement of
the Case to the Jury; Plaintiffs Proposed
Jury Instructions; Defendant’s Proposed
Jury Instructions; Jury Verdict—Special
Interrogatories; Consent Judgment

APPENDIX G2. Sample TRO barring former Employee from
using Trade Secrets

STATE LAWS CONCERNING OWNERSHIP RIGHTS TO INVENTIONS AND TRADE SECRETS

APPENDIX H. State Laws Concerning Ownership Rights to
Inventions and Trade Secrets: California;

TABLE OF CONTENTS

Illinois; Minnesota; Montana; North
Carolina; North Dakota; Washington

RESTRICTIVE COVENANTS

APPENDIX I1. State Statutes Regarding Restrictive
Covenants

APPENDIX I2. FTC Rule Banning Non-Compete Clauses

**FEDERAL TAX LAWS DEALING WITH
TRADE SECRETS**

APPENDIX J. Federal Tax Laws Dealing with Trade Secrets:
I.R.C. §§ 162; 174; 1221; 1222; 1231; and
1235. IRS Revenue Procedure 69-21

**SAMPLE MOTION PAPERS AND ORDERS
SEIZING TRADE SECRET PROPERTY**

APPENDIX K. Sample Motion Papers and Orders Seizing
Trade Secret Property Under State Replevin
Statutes and FRCP 64 and 65

**TRADE SECRETS—STATE CRIMINAL
STATUTES**

APPENDIX L. State Criminal Statutes Relating to Trade
Secrets

**U.S. DEPARTMENT OF JUSTICE LICENSING
GUIDELINES**

APPENDIX M. U.S. Department of Justice Licensing
Guidelines: 1995 Antitrust Guidelines for
the Licensing of Intellectual Property; 1988
Antitrust Enforcement Guidelines for
International Operations

**JAPANESE GUIDELINES FOR THE
REGULATION OF UNFAIR TRADE
PRACTICES**

APPENDIX N. Japanese Guidelines for the Regulation of
Unfair Trade Practices with respect to
Patent and Know-How Licensing
Agreements

1957 ROME TREATY PROVISIONS

APPENDIX O1. European Economic Community (EEC) 1957

Rome Treaty Provisions and Regulations
Dealing with Patent and Know-How
Licenses

APPENDIX O2. EU Trade Secret Directive

ECONOMIC ESPIONAGE ACT OF 1996

APPENDIX P1. Economic Espionage Act of 1996 (with
Legislative History) (18 U.S.C.A.
§§ 1831–1839)

APPENDIX P2. Economic Espionage Act (18 U.S.C.A.
§ 1831–1839) (As Amended May 11, 2016
by the Defend Trade Secrets Act of 2016-
See Appendix P3, *infra*)

APPENDIX P3. Defend Trade Secrets Act of 2016 (With
Legislative History)

APPENDIX P4. Protecting American Intellectual Property Act
of 2022

UNITED STATES AND ASIAN NATIONS— TRADE SECRET LAWS

APPENDIX Q. Comparison of Trade Secret Laws for United
States and Asian Nations

APPENDIX R. Japan Unfair Competition Prevention Law
(Law No. 14 of 1934 after the 1993
Amendment)

APPENDIX S. The Unfair Competition Prevention Act of
Korea (1992)

APPENDIX T. Taiwan Trade Secrets Act (January 19, 1996)

APPENDIX U. Computer Fraud and Abuse Act (18 U.S.C.A.
§ 1030)

BIBLIOGRAPHY

APPENDIX V. Bibliography

Table of Laws and Rules

Table of Cases

Index