Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. *Distribution List*
☐
☐
☐
☐

LAW OF CONFIDENTIAL BUSINESS INFORMATION

The Honourable Julie A. Thorburn and Rachel Chan

Release No. 2, May 2026

What's New in this Update

This release features case law updates to Chapter 3 (Defining Confidential Business Information), Chapter 4 (Confidential Business Information and the Employment Relationship), Chapter 5 (Claims for Breach of Confidential Business Information), Chapter 6 (Defences to Claims for Breach of Confidential Business Information) and Chapter 7 (Remedies for Breach of Confidential Business Information).

Thomson Reuters®

Customer Support
1-416-609-3800 (Toronto & International)
1-800-387-5164 (Toll Free Canada & U.S.)
E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Highlights:

- **Defences to Claims for Breach of Confidential Business Information—Nature of the Information—Reverse Engineering—**The Court concluded that the 2017 Behold Pricing Chart was used by the RACE and Aquire leadership team as part of the material used in preparation for Starbucks of the February 2020 Business Case and the October 2020 Business Case, building from the January 2018 Business Case and the December 2017 Presentation. Further, the Defendants were not permitted to disassemble the Behold Hardware, reverse engineer the facilities monitoring system and use the acquired knowledge to save time and expense in their design process in the development and manufacturing of a facilities monitoring system to take the place of the Behold System. Considering RACE's lack of skill in technology, the Court explained that RACE's quickest path to product design and development was to reverse engineer the Behold Hardware. The Court accepted the expert evidence that the Defendants could not have completed the design process for the Aquire Systems in the time that they did but for the misuse of confidential information from Behold. The Court concluded that the Defendants were liable to Behold for breach of the tort of breach of confidence. The Court concluded that the Defendants did not restrict their use of the Behold System to the permitted purpose, but rather reverse engineered the hardware and misused the Technical/Design Information in the accelerated design and development of the Aquire System and the Aquire v.2 System. This provided the Defendants with a "springboard" or "head start. The Court concluded that the Defendants could not have supplied and installed the Aquire System to Starbucks within 18 months of design and development without leveraging and misusing the Technical/Design Information of the Behold System: *Behold Control Equipment Inc. v. Race Mechanical Systems Inc.*, 2025 CarswellOnt 21510, 2025 ONSC 7129 (Ont. S.C.J.).
- **Remedies for Breach of Confidential Business Information—Equitable Relief—Interim and Interlocutory Injunctions—Balance of Convenience—**Instant Imprints sought an interim injunction restraining the Defendants from engaging in activities allegedly in violation of post-termination obligations set out in a Franchise Agreement between the Plaintiff and the Franchise Defendants. The requested injunctive relief also looked to restrain the Defendants, Elevate and Krista Reed, who were not privy to the Franchise Agreement but who were alleged to have acted intentionally, in cooperation with the Franchise Defendants and with knowledge of the restricted covenants found in the Franchise Agreement all

in a joint effort to avoid those restrictions and to the benefit of Elevate and Krista Reed. While the Court recognized that an injunction would have serious financial consequences for the Defendants, the Franchise Defendants deliberately acted contrary to the negative covenants they expressly agreed to in the Franchise Agreement. The balance of convenience was in favour of an injunction against them. The Court observed that it seemed that Elevate was incorporated for the purpose of assisting the Franchise Defendants to avoid their contractual obligations to the benefit of those persons and knowingly harming the Plaintiff. The balance of convenience was also in favour of an injunction against Elevate and Krista Reed being granted: *Instant Imprints Canada Inc. v. 738806 NB Inc.*, 2025 CarswellNB 586, 2025 A.C.W.S. 5301, 2025 NBKB 261 (N.B. C.K.B.).

Case Law Available from Canada Law Book

Find case law dating back to 1892 in BestCase. This web-based research service contains Canada Law Book's leading law reports and summary services, as well as a comprehensive collection of unreported decisions. Images of reported decisions (as they appear in our law reports) and original judgments are available as PDF files. Contact Canada Law Book's Customer Service at 1-416-609-3800, toll free 1-800-387-5164, or online at www.carswell.com for more information.