

Highlights of the 2026-1 Edition

This 2026-1 Edition of *Trade Secrets Law* includes updated coverage throughout the treatise of recent case law, legislative and regulatory actions. The new 2026-1 Edition includes:

- Updated section discussing non-technical information, notably a one of a kind musical work in the form of a single music album, qualifies as subject matter protectable under the Defend Trade Secrets Act (DTSA) and the one remaining state that has not adopted the Uniform Trade Secrets Act in any form (namely New York). (*See* § 3:3);
- Updated section discussing the alleged unconstitutional taking of business trade secrets by an Oregon law requiring pharmaceutical manufacturer disclosure of certain pharmaceutical sale, cost and profit data to a state agency. The U.S. Court of Appeals for the Ninth Circuit addressed this issue and concluded as a matter of law that the Oregon law was not facially unconstitutional under the Fifth Amendment as a taking. (*See* § 3:27);
- In recognition of the burgeoning case law interpreting the DTSA, select sections of Chapter 4 have been updated and new sections added. Updated section discussing trade secret ownership as a requirement for standing to assert a DTSA claim. (*See* § 4:6);
- Updated section discussing the level of specificity required by the Federal Rules of Civil Procedure in identifying trade secrets in complaints and disclosures prior to discovery in suits asserting misappropriation under the DTSA. (*See* § 4:6);
- Updated section discussing the developing case law on the independent economic value element required to be shown for a cognizable trade secret under the DTSA, and the Third Circuit decision in *NRA Group, LLC v. Durenlaup*, 154 F.4th 153, 171 (3d Cir. 2025), petition for cert. filed, — U.S.L.W. — (U.S. Mar. 2, 2026) (No. —), holding that passwords by themselves cannot as a matter of law be an enforceable trade secret under the DTSA and the Pennsylvania Uniform Trade Secret Act. (*See* § 4:7);
- Updated section discussing the level of specificity required in identifying trade secrets during discovery, at the summary judgment stage and pretrial, and at trial and post-trial in accordance with the Federal Rules of Civil Procedure in lawsuits asserting misappropriation under the DTSA. (*See* § 4:8);

- Added a section discussing the types of activities constituting reasonable measures as an element of an enforceable trade secret under the DTSA. (*See* § 4:9);
- Updated section discussing the misappropriation element, including whether lawful acts under a typical distributor-manufacturer relationship can be improper means, that establishes liability under the DTSA. (*See* § 4:10);
- Updated section discussing the acceptable level of specificity of identification of alleged trade secrets during discovery and at trial of DTSA and state law misappropriation claims. (*See* § 5:32);
- Updated Chapter 7 discussing the developing case law on remedies, including discussion of *Trinseo Europe GmbH v. Kellogg Brown & Root, L.L.C.*, 165 F.4th 399 (5th Cir. 2026); *Moxie Pest Control (Utah), LLC v. Nielsen*, 164 F.4th 1195 (10th Cir. 2026); *Insulet Corporation v. EOFlow, Co. Ltd.*, 779 F. Supp. 3d 124 (D. Mass. 2025), appeal docketed 25-1507 (May 27, 2025); *Appian Corporation v. Pegasystems, Inc.*, 924 S.E.2d 621 (Va. 2026); and *Military and Veteran Counseling Center, LLC v. Feller Behavioral Health PLLC*, 575 P.3d 1098, 2025 UT 33 (2025) (*See* Chapter 7):
- Updated section discussing state laws providing assurances to employees of retention of rights to a patent application and patentable inventions under certain conditions, and rendering employment agreements affecting these rights unenforceable, noting recent enacted New York legislation to this effect. (*See* § 8:4 and App. H);
- Updated sections discussing new significant case law developments for California, Colorado, New York, North Carolina, and Utah. (*See* Chapters 22, 23, 50, 51, 56, 62); and
- Updated Appendix for California statutory law to include California Civil Procedure Code § 2019.210, which is the source of numerous federal and state decisions concerning the acceptable level of specificity for disclosure of alleged trade secrets before discovery commences and during discovery. (*See* § A2:5).