

Trade Secret Law in Oklahoma: Defend Your Right to Know-How



TRADE SECRETS

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Are you striving to protect your business secrets from a competitor or former employee? Alternatively, are you seeking to defend your rights against a competitor or former employer that claims you stole their intellectual property?

In either case, you should know that a business may assert a claim for “trade secret misappropriation” in Oklahoma courts. For such a claim to be successful, the business must prove that it owns a “trade secret,” that a defendant

“misappropriated” that secret, and that the misappropriation of that secret caused damages.

For starters, what qualifies as a “trade secret” under Oklahoma law? First, the secret must be information – in the form of a formula, pattern, compilation, program, device, method, technique, or process – that derives independent economic value from not being generally known. Second, the secret must not be readily ascertainable. Lastly, the secret must be the subject of reasonable efforts by the plaintiff to maintain its secrecy. Additionally, the Oklahoma Supreme Court considers the following factors to guide its trade secret analysis: the extent to which the information is known outside of the business or by employees and others involved in the business; the amount of effort or money expended in developing the information; the extent of measures taken by the business to guard the information; the ease or difficulty with which the information could be properly acquired or duplicated by others; and the value of the information to the business and to competitors.

Next, what acts by a defendant qualify as “misappropriation”? Oklahoma law defines misappropriation as the acquisition of a trade secret of another by “improper means” – such as by theft, bribery, espionage, misrepresentation, or breach of duty – as well as the unauthorized disclosure of a secret. Whether the prior skills or “know-how” of an employee becomes part-and-parcel of a current or former employer’s “trade secrets” is a fact-specific inquiry and topic of debate. Finally, a business claiming trade secret misappropriation must set forth its damages. A defendant found liable for “trade secret misappropriation” may be subject to actual damages, the imposition of reasonable royalty for unauthorized use, and/or punitive damages.

“A secret is most valuable when it remains a secret.” Whether you agree or disagree with this sentiment, it is important to discuss your trade secret misappropriation concerns with a

professional.

About the author:

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