



Practice Areas

Trade Secret

In 2016, Congress passed the Defense Against Trade Secrets Act. For the first time, the DTSA creates a federal cause of action for trade secret misappropriation that allows private parties to bring civil trade secret claims in federal court. Prior to the DTSA, confidentiality agreements were traditionally governed under state law. While, like most state trade secrets laws, the DTSA is modeled after the Uniform Trade Secrets Act, its unique provisions require fresh consideration on how to draft confidentiality agreements with employees and potential and actual business partners. See [Charles R. Macedo, Michael Sebba, David P. Goldberg, Olivia Harris & Christopher Lisiewski, Practical Guidance: Non-Disclosure and Confidentiality Agreement \(Bloomberg Jan. 18, 2017\)](#).

Trade secrets are information confidential to your firm, which help you obtain a competitive advantage. They can be formulas (such as Coca-Cola or Tabasco sauce), business or manufacturing processes, methods of operation, or compilations of information (your customer list, for example), as well as other matters. Now more than ever, it is simple for exiting employees to take these secrets with them.

To protect your firm's trade secrets, you will have to take reasonable steps under the circumstances to keep them from falling into the hands of competitors or the general public. You can do this by, among other things, requiring employees given access to trade secrets to sign confidentiality or non-disclosure agreements, and/or binding them to non-compete clauses.

We can counsel you regarding what information to deem trade secrets, design training programs for your employees, craft nondisclosure agreements, and review your security procedures—as well as defend your trade secrets from misappropriation by competitors should they be inadvertently disclosed. We can also advise you on how your procedures need to be updated in light of the DTSA.



In today's "cut and paste" world, your valuable trade secrets have never been more at risk of disclosure; count on the lawyers at Amster, Rothstein & Ebenstein LLP to help you navigate these waters

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- Computer Hardware and Software
- Consumer Electronics
- Financial Services
- Green Technology and Energy
- Life Sciences & Biotechnology
- MEMS & Semiconductors
- Mobile Devices & Wireless
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- Start-Ups
- Toys & Games
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