



Chris Griswold, P.C.

News From the Firm

October 2017

Message From Chris....

Today, there's so much technology and capability to steal the intellectual property and trade secrets given the ever-evolving technology advancements of today's business world.... They're a huge cybersecurity risk. Oklahoma adopted a form of the Uniform Trade Secrets Act (UTSA) in 1986 (Texas did not until 2013). However, in May of 2016, President Obama made law the federal Defend Trade Secrets Act, which provides a first-time ever, federal, private cause of action for those who claim that their trade secrets have been "misappropriated." Helpful information for everyone (and don't forget to click on my Facebook or YouTube links below to also see my short video on this material).

Defend Trade Secrets Act (DTSA)

Question #1: Why was the federal DTSA made law? Although 48 States had previously passed their own form of the UTSA (all with their own variances, gaps, inconsistencies, etc...), until now, there was no federal cause of action for stealing others trade secrets and other forms of intellectual property – an the UTSA's of the States were, again, inconsistent and lacked homogeneity. Furthermore, to bring a claim under a State's particular UTSA, the action could only be brought in such State's State court system, not the federal courts.

Question #2: What sort of facts must exist that permit the federal DTSA to apply? A federal DTSA claim can only be brought if "...it is related to a product or service used in, or intended for use in, interstate or foreign commerce." This is the federal "diversity requirement" that mandates that the wrongful misappropriation occurred across State lines or in another country. So, if some sort of alleged misappropriation of your intellectual property or some other sort of trade secret gets tossed around between OKC and Dallas, you can have redress under the federal DTSA. But, if it all happens, from beginning to end, here in Oklahoma – no luck.

Question #3: What does the DTSA define as a "trade secret"? The federal DTSA defines "trade secret" as "...all forms and types of financial, business, scientific technical, economic, or engineering information including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes..."; including "tangible or intangible" information, regardless of how such information is "...stored, compiled or memorialized." *So what?*

Question #4: What does the Oklahoma UTSA define as a "trade secret"? In comparison, the Oklahoma UTSA defines "trade secret" as "...information, including a formula, pattern, compilation, program, device, method, technique or process...." So, the federal DTSA appears to be broader in its definition of what constitutes a "trade secret," not surprising since the federal DTSA is 30 years newer than the 1986 Oklahoma UTSA. *So what?*

Think about employees and certain vendors here, and trade secret stuff found nowhere else but in the employee's or vendor's minds – and same being subject to a plaintiff's federal DTSA claim (but not the Oklahoma UTSA).

What My Clients Are Saying

“Chris Griswold has a way of simplifying complex legal issues. He is quick to respond, efficient and professional in his delivery of services and fair and up front with his cost. Professional Insurors considers Chris an asset to both our business and our clients. Our trust in Chris grows each and every time we call upon his expertise.”

Kelly Miller / President / Professional Insurors Agency, LLC / Oklahoma City, Oklahoma

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