

New Federal Trade Secrets Protections for Employers

1 min read

Apr 28, 2016

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Both the U.S. Senate and House have passed the [Defend Trade Secrets Act of 2016](#), and it is expected to be signed by President Obama in short order.

The Act, which amends the Economic Espionage Act (18 USC § 1831), establishes a federal trade secrets law that can be enforced in federal court. Owners of trade secrets that are used or intended to be used in interstate or foreign commerce can pursue a variety of civil remedies. The most controversial of those remedies is *ex parte seizure*. An aggrieved party can petition the court to order law enforcement officials to seize, *ex parte*, any property “necessary to prevent the propagation or dissemination of the trade secret.” Other remedies include injunctive relief, damages and punitive damages of up to twice the amount of actual damages awarded. Claims must be filed within three (3) years from the time the misappropriation was discovered or should have been discovered.

Given the increasing amount of trade secret theft by foreign nationals who gain access to a business’ trade secrets through consulting or employment relationships, this new law should provide much needed relief. Employers who suspect current or former employees, consultants, or competitors have misappropriated trade secrets for use in other businesses or with foreign nationals should evaluate their potential claims under this new law.

For more information about the Defend Trade Secrets Act of 2016 contact [Jane Schlicht](#), your Hinshaw attorney, or a member of the firm’s [Intellectual Property Practice](#).

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