

List of General Questions

1. How have “trade secrets” been defined?
 - a. Is there a state civil statute defining trade secrets, and, if so, is it based on the Uniform Trade Secrets Act?

Identification of Principal Differences

- b. Is there a state criminal statute defining trade secrets?
 - c. Is there a state statute providing trade secret-type protection for computer software?
 - d. Have the courts cited or relied upon the definition of trade secrets contained in the Freedom of Information Act, 5 U.S.C. §552(b)(4), or a parallel state statute?
 - e. Have the courts in this state issued protective orders relative to the disclosure of trade secrets either during pre-trial discovery or post-trial? If so, have the orders been issued under the state trade secrets act or under a general rule of civil procedure?
2. How have the courts interpreted the definition of “trade secrets” under (a) the state statute, (b) the UTSA, or (c) the common law?
3. What policy considerations have the courts recognized as reasons that trade secret protection is necessary?

Business Ethics

Contract

Duty of Confidence/Loyalty

Economics

Property
Unfair Competition
Unjust Enrichment
Other

4. Upon what specific type(s) of evidence have plaintiffs (defendants) relied to establish (defeat) the elements of a trade secret and misappropriation of a trade secret claim?
5. What justifications have the courts used to deny trade secret protection?
6. To which specific types of information have the courts granted trade secret protection?
 - a. Scientific data such as chemical processes; manufacturing methods, machines, and devices.
 - b. Business information such as strategic and/or marketing plans, financial information, and credit and/or pricing policies.
 - c. Customer/account/client lists and/or related information such as customer/account/client needs, preferences, or contacts.
 - d. Computer programs and/or data compilations.
 - e. Employee know-how, including specialized and general skills and knowledge.
 - f. Other types of information.
7. What types of relief have the courts granted for the misappropriation of trade secrets?
 - a. Injunctive relief.
 - i. What elements must be shown to obtain injunctive relief?

- ii. What time periods of injunctive relief have been granted?
- iii. What starting dates for the injunctive period have courts imposed?
- b. Damages.
 - i. What elements must be shown to obtain damages?
 - ii. What types of damages have been awarded? (e.g., lost profits, punitive damages, etc.)
 - iii. How have such damages been calculated?
- c. Attorney's fees.
 - i. If the courts have awarded attorney's fees in this type of case, what elements must be shown to obtain such fees?
 - ii. What amounts of such fees have been awarded and how have these fees been calculated/estimated?
- 8. Have the courts granted protection to some type of "proprietary information" that does not rise to the level of a trade secret?
- 9. Law review articles and other resources that examine the law of trade secrets and other proprietary information in this state.

[For a state-by-state listing of additional topics, see the *Finding List of Additional Topics by State*, which follows the *Finding List by Question by State*.]

