

## Trade Secret Litigation Trends Reveal Important Timing and Budgetary Considerations

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Lex Machina's recent [Trade Secret Litigation Report](#) offers insights into trade secret litigation trends based on data culled from over 9,800 cases brought under state [trade secret](#) laws and the federal Defend Trade Secrets Act of 2016 (DTSA).

In addition to revealing [the benefits of proactive protection of trade secrets](#), the Report provides statistics related to the timing of common trade secret litigation remedies, including temporary restraining orders, preliminary injunctions, and permanent injunctions. The Report states “[k]nowing the lower and upper bounds of how long it may reasonably take the case to reach injunction can give both counsel a strategic advantage over opponents lacking such nuanced information.” For example, Lex Machina found:

- the median time for courts to grant a temporary restraining order was six days (denials took 12 days);
- the median time for courts to grant a preliminary injunction was 47 days (denials took 106 days); and
- the median time for courts to grant a permanent injunction was 216 days (denials took 916 days).

The data in the Report can assist in-house and outside counsel alike in comprehensively considering the timing of a trade secret case, which impacts both budgetary and business concerns. Pairing this data with the Report's findings that temporary restraining orders were granted in approximately 70% of cases, preliminary injunctions were granted in approximately 60% of cases, and permanent injunctions were obtained in only 10% of cases will help position companies to assess not only the cost of trade secret litigation, but the likelihood of success based on the reported timeline.

**TIP: Companies should seek advice from counsel promptly after trade secret theft is suspected to assess the strengths and weaknesses of potential claims, including seeking immediate relief through a temporary restraining order, and plan for possible budgetary and business contingencies.**

1 Min Read

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