

## Court Finds a List of “Confidential Information” Not Enough to Equal “Trade Secrets”

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On November 8, 2019, a California District Court dismissed both California Uniform Trade Secrets Act (“CUTSA”) and federal Defend Trade Secrets Act (“DTSA”) claims at the Motion to Dismiss stage for failure to sufficiently describe the allegedly stolen trade secrets. *Zoom Imaging Sols., Inc. v. Roe et al.*, 2019 WL 5862594, at \*5 (E.D. Cal. Nov. 8, 2019). Although the Plaintiff listed various items that it considered to be confidential information, it noted that only some of the list was also trade secrets. The Court found that Plaintiff’s list of certain types of confidential information alone was too vague to sufficiently plead the legal requirements of a “trade secret.”

Plaintiff Zoom Imaging “provides printing and imaging services to commercial businesses.” *Id.* at \*1. Zoom brought CUTSA, DTSA, and other claims against individual former employees and a competitor company, Power Business Technology, LLC (“Power”). Zoom alleged that it had “business, sales, and marketing strategies,” which it considered confidential information. *Id.* Zoom alleged that its former employees (each an individual defendant in the case) “accessed, downloaded, and emailed” the “confidential information and/or trade secrets” and shared that information with Power. *Id.* at \*2.

In their Motion to Dismiss, Defendants did not contest that Zoom had sufficiently pleaded improper acquisition, improper disclosure of trade secrets, or damages. *Id.* Rather, Defendants “contest[ed] only whether plaintiff had sufficiently identified the trade secrets at issue.” *Id.* at \*5. The Court noted that the trade secrets at issue were not generally known, and that Zoom used “reasonable and diligent efforts to maintain and protect” them. *Id.* The Court examined the list of confidential information that Zoom was claiming had been compromised, and determined that the list alone did not adequately identify which of the items were the purported trade secrets: “[b]ecause the list of confidential information is not exhaustive, and because the trade secrets are an unknown subset of the indefinite confidential information, plaintiff does not sufficiently identify anything.” *Id.* The Court therefore dismissed both DTSA and CUTSA theft of trade secrets claims.

**TIP:** Plaintiffs must make sure to sufficiently identify and describe trade secret information in a pleading (and take reasonable measures to protect it before any lawsuit occurs) to avoid dismissal.

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