



Trade Secrets, Non Competes & Restrictive Covenants

Theft of trade secrets and other confidential information occurs all too frequently in today's global, highly mobile, and competitive marketplace. In the course of advising clients, we have developed comprehensive, yet scalable, strategies for both mitigating against and responding to issues along the trade secrets protection spectrum, including helping position clients proactively before trade secrets theft occurs.

Our strength comes from our cross-functional and multi-disciplinary approach. Our trade secrets team includes attorneys with extensive technical experience, attorneys with in-house practical experience, IP attorneys with engineering and other science degrees who understand our clients' technologies, attorneys who have experience litigating matters arising out of non-competes and restrictive covenants, and seasoned former government prosecutors with specific internal investigation capabilities. We also have the breadth of experience to identify areas of vulnerability; advisory capabilities to set up policies, programs, technologies, and frameworks to continuously monitor and mitigate trade secrets risks; employment law experience to draft cutting-edge, effective, and enforceable non-compete agreements and restrictive covenants; relationships with law enforcement to make criminal referrals successfully; and a more than 450-litigator, trial-ready litigation team to protect our clients' interests aggressively before the courts and international tribunals.

We have handled some of the most important and challenging cases for clients in various industries, including digital media, energy, e-commerce, manufacturing, automotive, financial services, professional services, health care, medical devices, advanced technology, and consumer products. Our cases have involved the theft of company-critical trade secrets ranging from the most intricate technologies to manufacturing processes, product designs, and proprietary customer and pricing information.

Key Contacts

Natalie Arbaugh

David Enzminger

Areas of Focus

Assessments, Audits & Program Building

We help clients before litigation is on the horizon. We understand that trade secrets protection is a means of establishing a client's competitive position, so we offer structured maturity assessments and proactively advise clients seeking to build trade secrets frameworks and programs up front, before theft occurs, both to mitigate against the risk of theft within the practical realities of the organization and to maximize the company's protections under the law. We also assist clients in putting mechanisms in place to identify potential theft and promptly respond.

Internal Forensic Investigations, Incident Response & Criminal Referrals

When the risk of data/trade secret theft turns into a reality, it is critical that companies act swiftly to protect their interests and investments. This is where clients benefit from our significant investigative experience, in-house forensic capabilities, and technical proficiency. We can immediately respond, leveraging computer forensics and data-security experience to address internal or external threats. We then partner with internal client resources or qualified consultants to conduct investigations and devise matter-specific plans to contain and recover the data. We also counsel clients regarding the various legal remedies that may be available, including referring matters to law enforcement, seeking a temporary or permanent injunction, pursuing damages or an out-of-court settlement that may include, for example, an extended restrictive covenant or review of the bad actor's personal devices. We then tailor the investigation to the unique evidentiary needs of the remedial measure(s) that will seek to maximize success.

Trade Secret Litigation (Against Both Employees & Competitors)

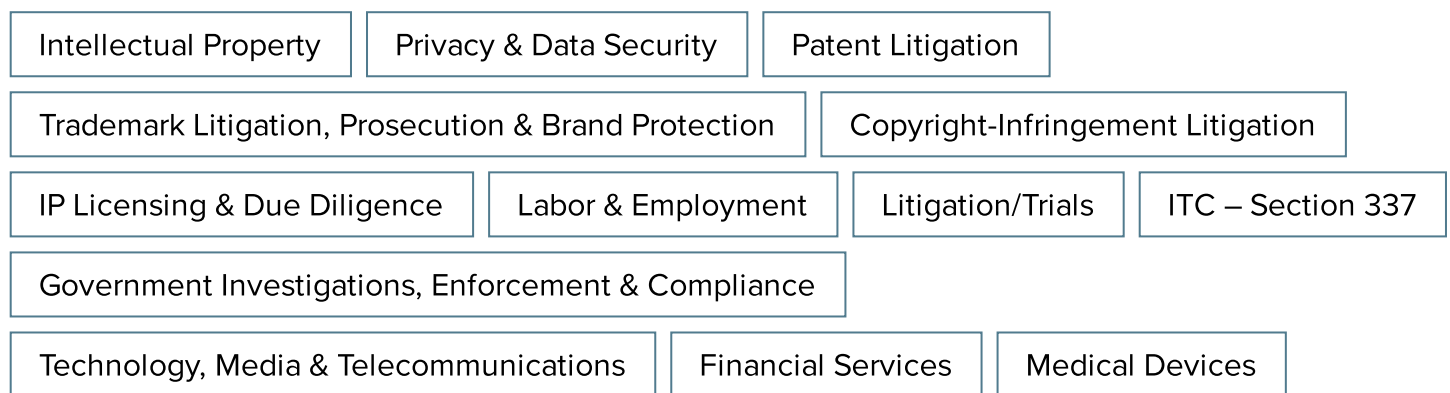
Our lawyers have extensive experience prosecuting and defending significant matters involving trade secrets, confidential and/or proprietary information, restrictive covenants, and related issues. Our ability to mobilize resources rapidly at any time has helped us win and defeat motions for temporary restraining orders, preliminary injunctions (TROs), and permanent injunctions in state and federal court. Losing no time, we can marshal our team's depth and breadth to file and obtain TROs within days of a client's request, and sometimes overnight. Such prompt action is important given the need to contain the potential damage from theft.

Further complementing our capabilities in this area is our strong International Trade Commission – Section 337 practice. We regularly represent clients in matters involving products manufactured using misappropriated trade secrets.

Breach Notification, Government Investigations & Enforcement Actions

In cases where trade secret theft occurs as a result of a cybersecurity breach, companies must navigate complex and time-sensitive third-party notification laws and regulations. Our attorneys are highly experienced guiding clients on whether, and when, data-security incident notification is required. Our team also helps clients to prepare the necessary communications to relevant governmental agencies, employees, and third parties. Additionally, Winston's renowned regulatory defense attorneys work with clients to remediate risk in situations where government regulators investigate or bring an enforcement action against a client for allegedly failing to prevent, anticipate, or properly respond to a breach.

Related Capabilities



Recent Experience

Secured Nearly...

Resources

[Privacy & Data Security Law Blog](#)

[Investigations, Enforcement, & Compliance Alerts](#)

Related Insights & News

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Winston Sponsors IAM Live: Trade Secret Strategy USA 2024

SEPTEMBER 25, 2024

IN THE MEDIA

John Sanders and Chase Cooper Discuss Win for Power Standard LLC with
Texas Lawyer
SEPTEMBER 5, 2024

ARTICLE

FTC Noncompete Ban Invalidated Until Further Notice
AUGUST 23, 2024

BLOG

FTC Ban on Worker Noncompetes Is Blocked Nationwide
AUGUST 22, 2024

IN THE MEDIA

Kevin Goldstein Discusses Implications of FTC Noncompete Ban on the Health
Care Industry
AUGUST 22, 2024

IN THE MEDIA

Kevin Goldstein Discusses FTC Ban on Worker NonCompetes with *The New York
Times*
JULY 8, 2024

BLOG

Texas Court Enjoins FTC's Ban on Worker Non-Competes, But Only For the
Plaintiffs
JULY 3, 2024

CLIENT ALERT

Harnessing Generative AI: Best Practices for Trade Secret Protection
JUNE 26, 2024

BLOG

FTC Adopts Final Ban on Worker Non-Competes
APRIL 23, 2024

SPEAKING ENGAGEMENT

Winston Attorneys Speak at TexasBarCLE's Advanced In-House Counsel Course
2023
AUGUST 3-4, 2023

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Winston & Strawn Sponsors 2023 USC Gould School of Law Intellectual

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FTC Proposes Rule Prohibiting Most Non-Compete Clauses for “Workers”

JANUARY 6, 2023