Trade Secrets

Even prior to the enactment of the Defend Trade Secrets Act in 2016 and its federal protection of intellectual property rights, Perkins Coie has helped safeguard global and market-leading clients’ vital commercial assets in forums nationwide.

We represent plaintiffs and defendants, from Fortune 100 companies to startups, in high-stakes disputes as well as counseling matters to prevent the loss of proprietary information and threats to trade secrets.

Whether moving swiftly to obtain preliminary injunctions or strategically assembling a trial-tested team to uphold clients’ rights, Perkins Coie is highly experienced with the timing, critical components and compelling arguments of trade secret claims. Our approach is cross-disciplinary, a reflection of the often-technical underlay of these claims, and is carried out by a deep bench of attorneys advising in such areas as:

- Litigation
- Employment
- Criminal Matters and Internal Investigations
- Business Counseling and Transactions
- Government Contracts

From defending against scorched earth litigation tactics to pursuing unscrupulous competitors or former employees, we are especially gifted at managing complex, massive, multiparty trade secret litigation in a practical and effective way, two words not usually associated with such cases.

More than 100 attorneys focus on trade secret issues and offer comprehensive legal representation in sophisticated, large-scale matters. We have prevailed at trial, secured jury awards, defeated high-risk claims and obtained substantial arbitration awards related to trade secret misappropriation claims. Our clients include pharmaceutical companies, aviation leaders, semiconductor makers, e-commerce companies and others. The scope of our counsel includes claims and guidance related to:

- Trade secret misappropriation
- Economic espionage
- Executive employment
- Employee raiding
- Breach of contract
- Breach of the implied covenant of good faith and fair dealing
- Unfair competition
- Nondisclosure agreements
- Noncompete agreements
- Internal trade secret protection procedures
- Trade secret license negotiations

Many of our Trade Secrets practice attorneys and IP professionals hold advanced technical degrees that facilitate our handling of the complex, scientific issues underpinning many trade secret matters. We have experience across an array of technologies and industries, including technology, media/entertainment; life sciences/healthcare; retail/hospitality; energy and natural resources and infrastructure.

Litigation
We handle trade secret disputes in federal and state courts across the country for clients ranging from Fortune 100 companies to startups. Their matters scale from pre-litigation dispute work, temporary restraining orders and preliminary injunctions to trial and appeal. Perkins Coie litigation and trial teams experienced in trade secret matters include 14 members of the American College of Trial Lawyers.

Complex, massive multiparty trade secret litigation is a particular practice strength, and we approach it with a practicality and effectiveness that is distinctive in the trade secret litigation arena. In addition, our litigation teams are bolstered by an E-Discovery Services & Strategy practice known for its depth and technical background. They deliver high-caliber results with efficiency, reliability, accuracy and cost control in a unified and strategic manner.

**Employment**

Our Labor & Employment practice attorneys have substantial experience managing trade secrets in the employment context. They counsel on the preparation and implementation of employment agreements involving trade secrets and other intellectual property, confidentiality agreements, non-compete agreements and internal trade secret protection procedures. Often, trade secret concerns trigger issues in other areas of the law. Our employment attorneys readily join forces with colleagues focused on intellectual property protections, creating a cohesive counsel team serving clients’ key industries and technologies.

**Criminal Matters and Internal Investigations**

Government investigations and white-collar criminal litigation are the focus of our White Collar & Investigations practice attorneys. Many are experienced former government lawyers with the U.S. Department of Justice and the Securities and Exchange Commission. They offer unique and invaluable insights that help corporations and individuals face the scrutiny of law-enforcement authorities in matters involving economic espionage and the theft of trade secrets. When the misappropriation of valuable trade secrets is suspected within an organization, we help companies conduct internal investigations and provide advice on preventing misconduct by employees. (More information on our Criminal Trade Secrets capabilities.)

**Business Counseling and Transactions**

When offering practical and effective advice to clients on trade secret issues related to business transactions, we assist clients with identifying and defining trade secrets, negotiate trade secret licenses and other transfers, and establish measures and programs for protecting trade secrets and other confidential information.

**Government Contracts**

Our Government Contracts practice attorneys help companies maximize the protection of their trade secrets when doing business with the federal government. We understand the rules and contract clauses that govern trade secret protection under government contracts and the government's rights in computer software and technical data. Our counsel includes preventing the improper release of trade secrets under the Freedom of Information Act (FOIA) as well as drafting and negotiating licenses and other intellectual property arrangements as part of prime contract, subcontract and teaming agreements.

For questions or to discuss any potential trade secrets issues, please send an inquiry to tradesecrets@perkinscoie.com and a Trade Secrets practice team member will respond.

**EXPERIENCE**

**MOVE, INC. V. ZILLOW, INC.**

King County Superior Court (Washington)
Represented the defendant Zillow in an employment-related unfair competition/trade secret case against its largest competitor in which the plaintiffs sought approximately $2 billion in damages. After the Court dismissed more than $1 billion of plaintiffs’ claimed damages, found in favor of Zillow on allegations of spoliation, and granted several of the client’s motions for partial summary judgment including dismissal of most of plaintiffs’ tort-based claims, case settled on what was scheduled to be the first day of trial.

**ANACOR PHARMACEUTICALS V. VALEANT PHARMACEUTICALS INC.**

JAMS Arbitration in San Francisco, CA
Obtained an award of $100 million, plus fees and costs, for Anacor Pharmaceuticals in a JAMS arbitration in San Francisco that involved trade secret misappropriation, breach of contract, breach of the implied covenant of good faith and fair dealing and unfair competition claims.

**TRIQUINT SEMICONDUCTOR V. AVAGO TECHNOLOGIES INC.**

U.S. District Court for the District of Arizona
Represented TriQuint in a patent, antitrust and trade secret case involving bulk acoustic wave technology. The court denied all of Avago’s summary judgment motions and granted TriQuint's motions to dismiss most of Avago's trade secret claims, all of its copyright claims and four of its patent claims.

**THE BOEING COMPANY V. SIERRACIN CORPORATION, ET AL.**
Represented Boeing at trial and on appeal in one of the most widely cited trade secret cases in the state of Washington. The case included antitrust counterclaims involving aircraft spare parts sales. The jury verdict for Boeing on trade secret claims was upheld on appeal, and the antitrust verdict against Boeing was reversed on appeal.

POWERDSINE INC. (MICROSEMI CORPORATION), ET AL. V. AMI SEMICONDUCTOR INC. (ON SEMICONDUCTOR)
U.S. District Court for the Southern District of New York
Defended ON Semiconductor in an action alleging misappropriation of proprietary information disclosed under a nondisclosure agreement (NDA) relating to integrated circuits used in Power-over-Ethernet technology. Microsemi Corporation sought $88 million in damages. The case settled on highly favorable terms after the court found sufficient merit in the defendant's oral motion to exclude the plaintiff's damages expert and to strike the plaintiff's damages claims to suspend the trial in its second week.

FLUKE CORPORATION/DANAHER CORPORATION V. MORROW, ET AL.
State Court of Appeals of Washington
Obtained a preliminary injunction for plaintiffs after a four-day bench trial in a noncompetition/trade secret/employee raiding suit. Later settled.

SMC NETWORKS INC. V. HITRON AMERICAS INC., ET AL.
U.S. District Court for the Central District of California
Acted as lead trial counsel for Hitron Americas Inc. and its former officers in litigation involving various claims, including misappropriation of trade secrets and unfair competition. The alleged misappropriation of trade secrets involved the cable modem industry.

AMAZON.COM INC. V. CHRISTOPHER ZYDA
U.S. District Court for the Western District of Washington
Represented Amazon.com Inc. in a trade secret dispute involving eBay's hiring of a senior Amazon.com executive. The case settled on favorable terms.

BIG FISH GAMES INC. V. IWIN INC.
U.S. District Court for the Western District of Washington
Obtained preliminary and permanent injunctive relief for Big Fish Games in a case based upon a competitor's unauthorized access to Big Fish Games' proprietary and trade secret information. The case was favorably resolved after discovery.

CALENCE LLC V. DIMENSION DATA HOLDINGS, PLC., ET AL.
U.S. District Court for the Western District of Washington
U.S. Court of Appeals for the Ninth Circuit
Served as trial counsel for Dimension Data and company vice president in trade secret, unfair competition and employee raiding lawsuit. We defeated motions for temporary and preliminary injunctive relief. The case was affirmed on appeal to Ninth Circuit and settled after the first week of scheduled three-week jury trial.

WAL-MART STORES V. AMAZON.COM
Superior Court of Arkansas
Represented defendant Amazon.com in an inevitable disclosure trade secret case regarding data warehousing and other computer technologies. The case settled following successful pretrial motions.

NEWS

01.31.2019
Christopher Veatch Quoted in Law360 - Trade Secret Theft Charges May Doom Huawei's Future in US
General News
Law360
Christopher Veatch was quoted in the Law360 article, "Trade Secret Theft Charges May Doom Huawei's Future in US," regarding U.S.-Chinese relations as it relates to the Huawei case.

11.06.2018
Nathan Kelley Mentioned in Multiple Publications Regarding His Joining Perkins Coie
General News
Nathan Kelley was mentioned in multiple publications regarding his joining the firm's Intellectual Property practice in the Washington, D.C. office.

11.06.2018
Perkins Coie Recognized as Leader for Gender Diversity Within IP Practice by ChIPS
Press Releases
Perkins Coie was recently named to the Honor Roll of the inaugural Inclusion Blueprint Survey, a joint initiative between ChIPS, a nonprofit organization focused on advancing women in technology, law and policy, and diversity and inclusion incubator, Diversity
Best Lawyers® 2019 Recognizes 277 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 277 of its attorneys were selected by their peers for inclusion in the 2019 edition of The Best Lawyers in America®.

Perkins Coie Launches New China IP Legal Report Blog

Press Releases

Perkins Coie is proud to announce the launch of the China IP Legal Report, a blog that was established to serve as a guide for in-house counsel and U.S. attorneys on navigating complex Chinese intellectual property law.

Perkins Coie Recognized by Corporate Counsel as Most-Hired Law Firm for IP Litigation

Press Releases

Perkins Coie is pleased to announce that the firm has been recognized as the leading law firm representing America's largest companies in intellectual property (IP) litigation by Corporate Counsel. Of the law firms handling the most IP litigation in 2016, Perkins Coie received 13 mentions—five more than its nearest competitor. In 2016, the firm was retained in more than 150 IP cases.

Best Lawyers® 2017 Recognizes 252 Perkins Coie Attorneys

Press Releases

Perkins Coie is proud to announce that 252 of its attorneys were selected by their peers for inclusion in the 2017 edition of The Best Lawyers In America®, the oldest and most respected peer-review publication in the legal profession.

PUBLICATIONS

Trade Secret Fundamentals

In general, a trade secret is any information that the owner keeps secret that has economic value because it is not known by others.

Criminal Trade Secret Prosecutions Under Trump—One Year Later

Updates

The first year of the Trump administration saw the DOJ continue the Obama administration’s focus on protecting U.S. intellectual property interests by investigating and prosecuting trade secret cases, especially those involving foreign interference and national security concerns.

Criminal Trade Secret Prosecutions Under Trump So Far

Articles

Law360

In early January 2017, just weeks before Donald Trump was to take the helm as the president of the United States, we assessed the government’s efforts to protect against the persistent financial and strategic threat posed by the theft of valuable intellectual property from U.S. companies by foreign agents and others.

How Will Criminal Trade Secret Prosecutions Fare Under President Trump?

Updates

For many companies, protecting intellectual property is a significant concern made more difficult in recent years by the persistent efforts of foreign agents to steal valuable trade secrets. Analysis of public sources indicates that under the Obama administration, the U.S. government has made substantial efforts to combat this theft through an increase by the U.S. Department of Justice (DOJ) in the number of criminal trade secret prosecutions.

This update was republished in Law360 on 01.06.2017, "Criminal Trade Secret Prosecutions Under President Trump."

Defend Trade Secrets Act Contains New Immunity Notification Requirements for Employers

Updates
The new Defend Trade Secrets Act (DTSA), signed into law by President Obama on May 11, 2016, creates a new private civil cause of action in federal court for trade secret misappropriation.

05.02.2016

New Defend Trade Secrets Act Creates Powerful Protection Options

Updates

The United States House of Representatives passed the Defend Trade Secrets Act, S. 1890 on April 27, 2016, in identical form to that previously passed by the Senate on April 4, 2016.

PRESENTATIONS

09.27.2018

Managing IP Trade Secrets Forum

Speaking Engagements

Panelist

San Jose, CA

11.07.2016

Defend Trade Secrets Act

Speaking Engagements


This comprehensive conference will include a detailed examination of the pros and cons of trade secret litigation in federal court under the new DTSA as opposed to existing state law trade secret protections.

CONTACTS

Susan E. Foster
Partner
Seattle
D +1.206.359.8846

James Sanders
Partner
Seattle
D +1.206.359.8681

RELATED SERVICES

PRACTICES

• Business Litigation
• Corporate Law
• Government Contracts
• Intellectual Property Law
• Labor & Employment Law
• Litigation
• White Collar & Investigations
TRADE SECRET FUNDAMENTALS


READ MORE

© 2019 Perkins Coie LLP