

(iii) Law Governing Trade Secrets

- ✓ While trademarks, copyrights, and patents are all subject to exclusive federal statutory schemes for their protection,
- ✓ There is no equivalent federal system relating to trade secrets.
- ✓ No registration is required to obtain trade secret protection.
- ✓ Trade secret law arises from common law principles, namely, *Judgment-Made Case Law*.
- ✓ The first reported trade secret case in the United States was decided in 1827 and involved manufacturing methods for making cheese.
- ✓ In 1938, the Restatement of Torts adopted a definition of a trade secret.
- ✓ Many states relied on that in developing their body of case law, leading to greater consistency in the development of trade secret law.
- ✓ Trade secrets are now discussed in the Restatement (Third) of Unfair Competition, which restates in a simple and clear fashion the law relating to trade secrets.
- ✓ Additionally, in 1979, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Trade Secrets Act (UTSA) to promote uniformity among the states with regard to trade secrets law.
- ✓ The UTSA was amended in 1985.
- ✓ The UTSA has been adopted in more than 45 states.
- ✓ Although modifications to the UTSA have been made by various states,
- ✓ There are some differences between the Restatement and the UTSA.
- ✓ For the most part, however, the Restatement position and the UTSA are consistent in their treatment of trade secrets law.

The following definition of trade secret has been adopted by the UTSA.

Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- (i) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who obtain economic value from its disclosure or use;
- (ii) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

- ✓ In sum, the law related to trade secret is derived from case law, state statutes modeled after the UTSA.

Overview And Compilation Of Us Trade Statutes

United States

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Congress. House. Committee on Ways and Means,2011 **Overview and Compilation of US Trade Statutes** Angela Ellard,2003-11 The statutory authorities selected are the major provisions of Federal law which are directly related to the conduct of U S international trade The compilation is not meant to be a comprehensive treatise of every trade related law or program nor does it cover provisions to regulate domestic commerce The laws programs within the jurisdiction of the Committee on Ways Means U S Congress are the main focus of this document are discussed in the greatest detail In addition some of the laws programs described may be within the jurisdiction of other committees of the U S House of Representatives are included in order to provide a complete survey of the principal trade authorities **Overview and Compilation of U.S. Trade Statutes, Part II of II, 2010 Edition, December 2010, 111-2 Committee Print, WMCP: 111-7, * United States.**
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