



Cantor Colburn LLP

*Intellectual Property Attorneys*

## **Cantor Colburn Client Alert: Interpreting the Defend Trade Secrets Act**

Intellectual property law currently has three areas of federal protection: copyright, trademarks, and patents. On Wednesday, April 27, 2015, a fourth protection became one step closer to being created when the House of Representatives passed the Defend Trade Secrets Act (DTSA), paving the way for its enactment with President Obama's expected signature. The DTSA would be the first federal cause of action for trade secret misappropriation. Companies would now be able to bring a suit in federal court for trade secret theft.

Prior to the DTSA, an owner of a trade secret would be forced to go to state court in order to try their case. This led to unpredictable results as trade secret laws vary from state to state. The new law provides a unified approach to trade secret cases, but it does not overrule any state's laws that are already enacted. The DTSA includes injunctive relief, damages, and reasonable attorney's fees if a claim is made in bad faith. One part of the bill would allow the court to seize certain property without prior notice to the defendant, although the bill limits the seizure to "extraordinary circumstances" and provides damages to victims of wrongful seizures.

Trade secrets include confidential, commercially valuable information intended to provide competitive advantage. Publicly traded U.S. companies are estimated to own \$5 trillion worth of trade secrets (US Dept. of Commerce). Examples include the secret formula for Coca-Cola, the Kentucky Fried Chicken secret recipe, and the Google algorithm. Cantor Colburn is closely monitoring the progress of the DTSA. Please contact our attorneys if you have any questions regarding the DTSA and your trade secrets.

### **For Further Information and Assistance**

To discuss these changes in relation to your IP, please contact your Cantor Colburn attorney. Adam Bercowetz, an attorney in our Litigation Department, is also available to discuss the DTSA at (860) 286-2929, ext. 1162 or at [abercowetz@cantorcolburn.com](mailto:abercowetz@cantorcolburn.com).

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