

Missouri Uniform Trade Secrets Act

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TITLE 26. TRADE AND COMMERCE (Chs. 400-421)
CHAPTER 417. TRADEMARKS, NAMES AND PRIVATE EMBLEMS
UNIFORM TRADE SECRETS ACT

§§ 417.450 through 417.467 R.S.Mo. (2011)

§ 417.450. **Law how cited**

Sections 417.450 to 417.467 shall be known and may be cited as "The Missouri Uniform Trade Secrets Act".

§ 417.453. **Definitions**

As used in sections 417.450 to 417.467, the following terms mean:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means;

(2) "Misappropriation":

(a) Acquisition of a trade secret of a person by another person who knows or has reason to know that the trade secret was acquired by improper means; or

(b) Disclosure or use of a trade secret of a person without express or implied consent by another person who:

a. Used improper means to acquire knowledge of the trade secret; or

b. Before a material change of position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake; or

c. At the time of disclosure or use, knew or had reason to know that knowledge of the trade secret was:

i. Derived from or through a person who had utilized improper means to acquire it;

ii. Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

iii. Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use;

(3) "Person", a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, governmental subdivision or agency, or any other legal or commercial entity, whether for profit or not for profit;

(4) "Trade secret", information, including but not limited to, technical or nontechnical data, a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) 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 can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

§ 417.455. Misappropriation, actual or threatened may be enjoined--injunction terminates, when--exceptional circumstances, defined

1. Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

2. In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

3. In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

§ 417.457. Damages for misappropriation--punitive damages awarded, when

1. Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation. Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

2. If misappropriation is outrageous because of the misappropriator's evil motive or reckless indifference to the rights of others, the court may award punitive damages.

§ 417.459. Court's duty in misappropriation, action to preserve secrecy of trade secret

In an action under sections 417.450 to 417.467, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

§ 417.461. Action for misappropriation must be brought when, time limitation--continuing misappropriation is one claim

An action for misappropriation shall be brought within five years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.

§ 417.463. Action for misappropriation displaces certain other actions for recovery--actions civil and criminal not affected

1. Except as provided in subsection 2 of this section, sections 417.450 to 417.467 displace conflicting tort, restitutionary, and other laws of this state providing civil remedies for misappropriation of a trade secret.

2. Sections 417.450 to 417.467 shall not affect:

(1) Contractual remedies, whether or not based upon misappropriation of a trade secret; or

(2) Other civil remedies that are not based upon misappropriation of a trade secret; or

(3) Criminal remedies, whether or not based upon misappropriation of a trade secret; or

(4) The discovery of facts, opinions, information, documents, things, and any other matters discoverable in litigation, except in litigation which alleges misappropriation of trade secrets as a cause of action.

§ 417.465. Purpose of the uniform law

Sections 417.450 to 417.467 shall be applied and construed to effectuate their general purpose of making uniform the law with respect to the subject of trade secrets among states enacting them.

§ 417.467. Effect of existing misappropriation prior to August 28, 1995

With respect to a continuing misappropriation that began prior to August 28, 1995, sections 417.450 to 417.467 shall not apply to the continuing misappropriation that occurs after such date.

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