In a business environment in which employee mobility and the proliferation of tech start-ups are the norm, trade secret misappropriation and misappropriation claims continue to rise.

Steptoe helps clients assess the value of their confidential, proprietary formulas, manufacturing and business processes, methods of operation, business strategies, and customer information and to determine how best to:

- Protect trade secrets
- Recover trade secrets
- Obtain compensation if trade secrets are misappropriated
- Avoid misappropriation claims by others
- Defend against misappropriation claims if they are made

Steptoe lawyers have significant experience advocating for clients in the courtroom, before the International Trade Commission (ITC), as well as through alternative dispute resolution (ADR). We are adept in litigating claims for misappropriation of trade secrets and confidential information, claims related to confidentiality agreements, covenants not to compete and licenses, and claims under federal statutes which proscribe misappropriation and “hacking” activities such as the Computer Fraud and Abuse Act and the Electronic Communications Privacy Act.

Perhaps most importantly, we recognize that trade secret disputes are frequently won or lost at a practical level through the outcome of interim injunction proceedings. It is routine for our trade secret litigators to mobilize quickly to seek injunctions and respond to them on very short notice, ensuring that our client’s position is effectively presented.

Given the breadth of trade secret information (e.g., customer information vs. scientific formulas) and of the contexts in which it is implicated (e.g., a departing employee vs. a joint venture), our trade secrets team is also able to draw from an interdisciplinary group of lawyers within Steptoe’s intellectual property, labor and employment, and litigation practices to assist clients in substantively varied trade secret matters. Our experienced litigators also prioritize maintaining confidential information during litigation—which is becoming an increasingly critical issue.

Beyond litigation, clients rely on Steptoe for assistance with:

- Creating employee handbooks, non-competition agreements, confidentiality agreements, non-solicitation agreements, email and privacy policies, and incentive compensation agreements for corporate employees
- Counseling employers on steps to take to avoid receiving trade secrets or confidential information when hiring key employees from competitors
- Conducting trade secret and confidential information audits, either as stand-alone audits or as part of a broader IP audit
- Preparing non-disclosure agreements, confidentiality agreements, and non-compete agreements for prospective merger and acquisition partners, joint venture partners, contractors, vendors, consultants, and professionals
- Licensing trade secret information
- Negotiating with government agencies to prevent them from releasing clients’ trade secret information in response to a request made by a member of the public for access
- Drafting outsourcing agreements and technology commercialization agreements with appropriate protections for trade secrets, confidential know-how, and other intellectual property
- Identifying appropriate steps to maintain confidentiality and protect trade secrets and confidential know-how in a digital, networked, or Internet environment

**Noteworthy**

Representative Matters

Trade Secrets and Unfair Competition Cases

- **SoftWriters, Inc. v. Integra, Inc., et al.** (W.D. PA. 2015). Represented SoftWriters in a trade secret misappropriation action involving issues concerning the healthcare industry. This matter was settled.


- **SanDisk Corp. v. SK Hynix Inc.** (Santa Clara County Superior Court and US District Court Northern District of California, 2014). Steptoe represented SK Hynix, a large memory chipmaker and semiconductor company, in trade secrets litigation against SanDisk. The matter settled favorably.

- Steptoe completed a research project for the Chinese Ministry of Commerce (MOFCOM) that culminated in a handbook on trade secret investigations at the International Trade Commission. The handbook provides a business oriented guide for MOFCOM to use in teaching Chinese companies about trade secrets litigation and trade secrets misappropriation. It may also be used by MOFCOM to assist Chinese companies in responding to Section 337 investigations and US federal and state court litigation involving alleged trade secret misappropriation. (2014)

- **Huawei Technologies Co., Ltd. v. Motorola, Inc. et al.** (N.D. Ill., 2011). Represented Nokia Siemens Networks B.V. and Nokia Siemens US (collectively NSN) in a trade secret action seeking to prevent the $1.2 billion sale of Motorola’s wireless networks business to NSN.

- **Newport Controls v. Balboa Instruments** (C.D. Cal., 2010). Represented Balboa Instruments in an antitrust action involving the commercialization of spa controllers. The case settled on favorable terms.


- **Kirchman Corporation v. Regions Financial Corporation** (M.D. Fla., 2006). Defended Regions in a contract action concerning bank data processing software in which the plaintiff was seeking in excess of $60 million. The action was concluded with a settlement favorable to Regions.

- **McDonnell Douglas v. NASA**, 180 F.3d 303 (DC Cir., 1999). Served as lead counsel for McDonnell Douglas in groundbreaking reverse-FOIA litigation, establishing that line item prices in government contracts can be protected from public disclosure under Exemption 4 and the Trade Secrets Act.
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Primary Contacts

Michael J. Allan
Timothy C. Bickham
Practices

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