

## Syllabus for Trade Secrets

Law 347  
Fall 2023  
2 Credits

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### I. COURSE MATERIALS.

Elizabeth A. Rowe & Sharon K. Sandeen, *Cases and Materials on Trade Secret Law* (3d ed. 2021). Paper version preferred.

Additional materials on Blackboard.

### II. LEARNING OUTCOMES.

By the end of the course, students should have an understanding of the doctrinal principles of trade secret law and the moral and economic policy considerations that underlie this body of law. Additionally, students should learn general skills on how to read and analyze cases and other legal materials, to identify and respond to legal problems, to make legal arguments, and to apply legal rules to facts.

### III. OFFICE HOURS.

Office hours are Wednesdays from 2-4pm. You can also email me for an appointment. Generally, email is a more reliable way to reach me than phone.

### IV. ASSESSMENT AND GRADES

Your grade will be based on a final exam, which will be graded blindly. The exam will be open book, but only paper materials will be allowed. For this reason, you are advised to get a paper version of the casebook. Additional details regarding the exam will be determined later in the semester.

### V. ZOOM

Barring unexpected circumstances, the class will meet in-person. However, we may have online class if special circumstances arise (e.g., if I get infected). We may also have online class on snow days. You should have the proper equipment (webcam, internet) for that possibility.

If you are experiencing symptoms of Covid-19 or any other respiratory illness, please do not come to class until you fully recover. You should email me for a Zoom link if you are medically unable to come to class. I do not allow attendance by Zoom for non-medical reasons—the reason medical absences are special is that they are designed to protect your classmates and the public.

### VI. ASSIGNMENTS

Generally, we will cover one topic per class. If we fall behind, we will carry over material to the next class. The assignments are also subject to change depending on our progress.

The assigned pages include both the excerpted cases and the casebook authors' notes about them. I recommend reading the notes, but we will focus mainly on the cases in class.

## **1. Introduction to Trade Secrets**

Casebook 262-267, 1-30

*E.I. DuPont de Nemours & Co. v. Christopher*, 431 F.2d 1012 (5th Cir. 1970)

*Waymo LLC v. Uber Techs., Inc.*, 2017 WL 2123560 (N.D. Cal.)

*Clorox Co. v. S.C. Johnson & Son, Inc.*, 627 F.Supp.2d 954 (E.D. Wis. 2009)

## **2. Conditions of Protection I: Subject Matter**

Casebook 51-55, 60-67

*Del Monte Fresh Produce Co. v. Dole Food Co.*, 136 F. Supp. 2d 1271 (S.D. Fla. 2001)

*Altavion, Inc. v. Konica Minolta Sys. Lab. Inc.*, 226 Cal. App. 4th 26 (2014)

Blackboard

*Religious Tech. Center. v. Wollersheim*, 796 F.2d 1076 (9th Cir. 1986)

*Richter v. Westab, Inc.*, 529 F.2d 896 (6th Cir. 1976)

## **3. Conditions of Protection II: Secrecy versus Public Knowledge**

Casebook 101-104, 79-82, 1

*Hutchison v. KFC Corp.*, 51 F.3d 280 (9th Cir. 1995)

*Bondpro Corp. v. Siemens Power Generation, Inc.*, 463 F.3d 702 (7th Cir. 2006)

*Rohm and Haas Co. v. Adco Chem. Co.*, 689 F.2d 424 (3d Cir. 1982)

*Peggy Lawton Kitchens, Inc. v. Hogan*, 18 Mass. App. Ct. 937 (1984)

## **4. Conditions of Protection III: Economic Value**

Casebook 145-155, 157-174

*Electro-Craft Corp. v. Controlled Motion, Inc.*, 332 NW.2d 890 (Minn. 1983)

*Yield Dynamics, Inc. v. Tea Sys. Corp.*, 154 Cal.App.4th 547 (2007)

*Buffets, Inc., v. Klinke*, 73 F.3d 965 (9th Cir. 1996)

*Taylor v. Babbitt*, 760 F. Supp. 2d 80 (D.D.C. 2011)

## **5. Conditions of Protection IV: Reasonable Effort**

Casebook 199-212, 217-235,

*Rockwell Graphic Sys. v. Dev Indus., Inc.*, 925 F.2d 174 (7th Cir. 1991)

*Vendavo, Inc. v. Long*, 397 F. Supp. 3d 1115 (N.D. Ill. 2019)

*InCase Inc. v. Timex Corp.*, 488 F.3d 46 (1st Cir. 2007)

*Learning Curve Toys, Inc. v. Playwood Toys, Inc.*, 342 F.3d 714 (7th Cir. 2003)

## **6. Scope of Protection**

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*Nichols v. Universal Pictures Corp.*, 45 F.2d 119 (2d Cir. 1930)

Casebook 326-330, 60-67

*Mangren Res. & Dev. Corp. v. Nat'l Chem. Co.*, 87 F.3d 937 (7th Cir. 1996)

*Altavion, Inc. v. Konica Minolta Sys. Lab. Inc.*, 226 Cal. App. 4th 26 (2014)  
(re-read)

## **7. Misappropriation I: Improper Acquisition**

Casebook 253-267, 271-275, 281-295

*Pioneer Hi-Bred Int'l v. Holden Found. Seeds, Inc.*, 35 F.3d 1226 (8th Cir. 1994)

*E.I. DuPont deNemours & Co. v. Christopher*, 431 F.2d 1012 (5th Cir. 1970)  
(re-read)

*Chicago Lock Co. v. Fanberg*, 676 F.2d 400 (9th Cir. 1982)

*Microstrategy, Inc. v. Bus. Objects, S.A.*, 331 F. Supp. 2d 396 (E.D. Va. 2004)

## **8. Misappropriation II: Duty of Confidentiality**

Casebook 299-310, 315-323

*Town & Country House & Homes Serv. Inc. v. Evans*, 150 Conn. 314 (1963)

*Shatterproof Glass Corp. v. Guardian Glass Co.*, 322 F. Supp. 854 (E.D. Mich. 1970)

*Kamin v. Kuhnau*, 232 Or. 139 (1962)

*Burten v. Milton Bradley Co.*, 763 F.2d 461 (1st Cir. 1985)

## **9. Misappropriation III: Use or Disclosure**

Casebook 331-340, 375-403

*ScentSational Techs., LLC v. Pepsico, Inc.*, 2017 WL 4403308 (S.D.N.Y)

*Pepsico, Inc. v. Redmond*, 54 F.3d 1262 (7th Cir. 1995)

*Whyte v. Schlage Lock Co.*, 101 Cal. App. 4th 1443 (2002)

*Archer Daniels Midland Co. v. Sinele*, 2019 IL App (4th) 180714

## **10. Non-Compete Agreements; Third Party Liability**

Casebook 357-375, 342-355

*Campbell Soup Co. v. Desatnick*, 58 F. Supp. 2d 477 (D.N.J. 1999)

*Edwards v. Arthur Andersen LLP*, 44 Cal.4th 937 (2008)

*DVD Copy Control Ass'n v. Bunner*, 116 Cal. App. 4th 241 (2004)

Blackboard

Ronald J. Gilson, *The Legal Infrastructure of High Technology Industrial Districts: Silicon Valley, Route 128, and Covenants Not to Compete*, 74 N.Y.U. L. Rev. 575 (1999)

- You should, at a minimum, read the introduction for class.

## **11. Ownership; First Amendment**

Casebook 340-342, 403-424, 457-468

*Morton v. Rank Am., Inc.*, 812 F. Supp. 1062 (C.D. Cal. 1993)

*N. Electric Co. v. Torma*, 819 N.E.2d 417 (Ind. App. 2004)

*Ingersoll-Rand Co. v. Ciavatta*, 110 N.J. 609 (1988)

*Ford Motor Co. v. Lane*, 67 F. Supp. 2d 745 (E.D. Mich. 1999)

## **12. Remedies**

Casebook 487-497, 512-521, 527-532

*SI Handling Sys., Inc. v. Heisley*, 753 F.2d 1244 (3d Cir. 1985)

*Gen. Elec. Co. v. Sung*, 843 F. Supp. 776 (D. Mass. 1994)

*Roton Barrier, Inc. v. Stanley Works*, 79 F.3d 1112 (Fed. Cir. 1996)

*Linkco, Inc. v. Fujitsu Ltd.*, 232 F. Supp. 2d 182 (S.D.N.Y. 2002)

## **13. Theoretical Foundations of Trade Secret Law**

Blackboard

Robert G. Bone, *A New Look at Trade Secret Law: Doctrine in Search of Justification*, 86 Calif. L. Rev. 241 (1998)

Mark A. Lemley, *The Surprising Virtues of Treating Trade Secrets as IP Rights*, 61 Stan. L. Rev. 311 (2008)

Casebook 30-38, 571-576

*Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984)