

## SPRING 2026 COURSE SYLLABUS

Course Number: 347-001

Course Title: Trade Secrets

Credit Hours: 1

Grading Mode: Letter graded

Meeting Time(s): TUE 6:05p-8:05p

Meeting Mode: On campus

Exam Time(s): TBD

Exam Mode: On campus final exam

Prerequisite(s): N/A

Corequisite(s): N/A

Instructor(s):

Frederic M. Meeker

John Peloquin

Contact Information and Office Hours:

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[jpeloqui@gmu.edu](mailto:jpeloqui@gmu.edu)

Reading(s) & Supplement(s):

1. The Virginia Uniform Trade Secrets Act
2. Federal Trade Secret Law: Economic Espionage Act

Course Overview:

Considers the law and theory applicable to protection of confidential business information ranging from computer programs and manufacturing processes to customer lists. This course covers reverse engineering of products; invention/idea submissions from employees and outsiders; employment agreements; consultant agreements; considerations regarding drafting of agreements; remedies; defenses; misappropriation; trade secret-defeating publications versus patent-defeating publications; implied and express duties of confidentiality; trial tactics; use of trade secret clauses to effect non-

compete agreements; the inevitable disclosure doctrine; Federal Economic Espionage Act of 1996; and various public policy considerations associated with the foregoing. The procedures and requirements for preserving trade secret protection for confidential business information are reviewed. The economics of trade secret law is considered relative to other types of protection such as patents and copyrights.

### Course Learning Outcomes:

After completion of this course, students will be able to understand trade secrets, how to apply trade secret agreements in employment, litigation, joint ventures, supplier agreements, and with customers

### Grading Policies:

Grading for the course will be based on a final in-class exam, which is subject to modification based upon course participation and attendance. The final exam comprises a mixture of true and false and short essay questions.

### Classroom Policies:

**Attendance:** Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

**Absences:** Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

### Use of Technology & AI:

Generative AI tools may be used in this course for the following purposes, and with the following guidelines. Students may use AI in this course to outline, study, and explore, but may not use AI during any quiz or exam or during Socratic dialogue. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create course work product, properly cite any AI tools utilized, and should be prepared to produce the transcript of prompts and responses upon request. Misuse will be treated as a violation of academic standards.

### Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's *written* exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E -books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e -book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

## Course Schedule & Assignments

### 1. Trade Secrets v. Other Forms of Protection - January 20, 2026

- Introduction to Course
- *Kewanee Oil Co. v. Bicron Corp.*, 416 U.S. 470, 94 S.Ct. 1879, 1974 U.S. Lexis 134,
- 181 USPQ 673 (1974) (All)
- *DVD Copy Control Ass'n Inc. v. Bunner*, 31 Cal. 4th 864, 2003 Cal. Lexis 6295, 68
- USPQ2d 1385 (2003) (pp. 1386; I A, pp. 1387-88, II pp. 138990; III B, pp. 1390-92; III D, pp. 1396-98)
- *Computer Assoc. International, Inc. v. Altai, Inc.*, 982 F.2d 693, (2nd Cir. 1992) (Section II A., pp. 716-719); 1992 U.S. App. Lexis 33369
- *Harold L. Bowers v. Baystate Technologies, Inc.*, 320 F.3d 1317, 2003 U.S. App. Lexis 1423, 65
- USPQ2d 1746 (Fed. Cir. 2003) (pp. 1323-1328, 1335-1338)

### 2. Subject Matter of Trade Secrets & Competitive Advantage - January 27, 2026

- *Optic Graphics, Inc. v. Agee*, 87 Md. App. 770, 591 A2d 578 (Md. App. 1991)
- (Part I, pp. 584-587); 1991 Md. App. Lexis 148 (1991)
- *Air Products & Chemicals Inc. v. Chas. S. Tanner Co.*, 1983 U.S. Dist. Lexis 17243, 219 USPQ 223 (D.S.C. 1983) (Part "V, A, B & C" pp. 251-253)
- *Web Communications Group v. Gateway 2000, Inc.* 889 F. Supp. 316, (N.D.Ill., 1995) (Part III A., pp. 319-321); 1995 U.S. Dist. Lexis 3992
- *Tao of Systems Integration Inc. v. Analytical Services*, 299 F. Supp. 2d 565, pp. 568-570; 574-576 (E.D. Va. 2004); 2004 U.S. Dist. Lexis 313
- *Microstrategy Inc. v. Business Objects S.A.*, 331 F. Supp. 2d 396 (ED Va 2004) (pp. 421-426); 2004 U.S. Dist. Lexis 18228
- *E.1. DuPont deNemours & Co. v. Christopher*, 431 F.2d 1012, 1970 U.S. App. Lexis 8091, 166
- USPQ 421, 167 USPQ 1 (5th Cir. 1970) (All)

### 3. Secrecy - Techniques for Protection & Secrecy (Publication) - February 3, 2026

- *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 1999 U.S. App. Lexis 6092, 50 USPQ2d 1332 (4th Cir. 1999) (pp. 1332-1338)
- *B.C. Ziegler & Co. v. Ehren*, 141 Wis. 2d 19, 414 NW 2d 48 (1987); 1987 Wisc. App. Lexis

- 4024 (All)
- *Matter of Innovative Construction Systems Inc.*, 793 F.2d 875, 1986 U.S. App. Lexis 26357, 230
- USPQ 94 (7th Cir. 1986) (pp. 94-103)
- *Aqua Connect, Inc v. Code Rebel, LLC*, 2012 WL 469737 (C.D. Cal. 2012) (All)
- *Secure Services Technology Inc. v. Time and Space Processing Inc.*, 722 F. Supp. 1354, 1989
- U.S. Dist. Lexis 11848, 12 USPQ2d 1617 (E.D. Va 1989) (pp. 1356-1632)
- *Rhone-Poulenc Agro SA v. DeKalb Genetics Corp.*, 272 F.3d 1335, 2001 U.S. App. Lexis 24812, 60 USPQ2d 1769 (Fed. Cir. 2001) (Sections I, VI)
- *Group One Ltd. v. Hallmark Cards Inc.*, 254 F.3d 1041, 2001 U.S. App. Lexis 13291, 59 USPQ2d 1121 (Fed. Cir. 2001) (Section III only)

**4. Wrongful use - Special Relationship- (including submission of outside ideas and employee covenants) - February 10, 2026**

- *Smith v. Snap-On Tools Corp.*, 833 F.2d 578, 1987 U.S. App. Lexis 17404,
- 5 USPQ2d 1122 (5th Cir.1987) (All)
- *Raybestos-Manhattan, Inc. v. Rowland*, 460 F.2d 697, 1972 U.S. App. Lexis 9346,
- 174 USPQ 137 (4th Cir. 1972) (All)
- *Burten v. Milton Bradley Co.*, 763 F.2d 461, 1985 U.S. App. Lexis 20697,
- 226 USPQ 605 (1st Cir. 1985) (All)
- *Dionne v. Southeast Foam Converting & Packaging Inc.*, 240 Va 297, 1990 Va. Lexis 121, 17
- USPQ2d 1565 (Va., 1990) (All)
- *Roto-Die Co. v. Lesser*, 899 F. Supp. 1515 (W.D. Va., 1995) (pp. 1517-1522),
- 1995 U.S. Dist. Lexis 14806
- *Lanmark Technology Inc. v. Canales*, 454 F.Supp 2d 524 (ED VA 2006) 2006 U.S. Dist. Lexis 72012 (All)
- *Pepsi Co, Inc. v. Redmond*, 54 F.3d 1262, 1995 U.S. App. Lexis 10903,
- 35 USPQ2d 1010 (7th Cir. 1995) (Part "A" pp. 1267-1271)

**5. Wrongful Use and Transferring Rights (Joint Development and Confidentiality Provisions) -February 17, 2026**

- *Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 1991 U.S. App. Lexis 18091, 19 USPQ2d 1775 (9th Cir. 1991) (Sections I and II, pp. 972-973)
- *Williams v. Curtiss- Wright Corp.*, 681 F.2d 161, 1982 U.S. App. Lexis 19108,
- 216 USPQ 108 (3rd Cir. 1982) (Section II, pp. 163-164)

- *Chicago Lock Co. v. Fanberg*, 676 F.2d 400, 1982 U.S. App. Lexis 19484, 216 USPQ
- 289 (9th Cir. 1982) (All)
- *Aronson v. Quick Point Pencil Co.*, 440 U.S. 257, 1979 U.S. Lexis 64, 201 USPQ 1 (1979) (All)
- *Roton Barrier, Inc. v. The Stanley Works*, 79 F.3d 1112, 1996 U.S. App. Lexis 5380, 37 USPQ2d 1816 (Fed. Cir. 1996) (Excluding Section IV)

## **6. Defenses/Trial Strategy & Remedies - February 24, 2026**

- *Standard Brands Inc. v. Zumpe*, 264 F. Supp. 254, 1967 U.S. Dist. Lexis 11364, 152
- USPQ 731 (ED. La., 1967) (pp. 260-271)
- *Capital Tool & Jo.Mfg. Co. v. Maschinenfabrik Herkules*, 837 F.2d 171, 1988 U.S. App. Lexis 434, 5 USPQ2d 1910 (7th Cir. 2001)
- *Seatrax Inc. v. Sonbeck International, Inc.*, 200 F.3d 358, 2000 U.S. App. Lexis 883, 53
- USPQ2d 1513 (5th Cir. 2000) (Section I, pp. 1515-1518)
- *Automed Technologies Inc. v. Eller*; 160 F. Supp 2d 915 (I Trade Secrets; V Protective Order) (N.D. Ill 2001), 2001 U.S. Dist. Lexis 9728
- *Mike's Train House, Inc. v. Lionel L.L.C.*, 472 F.3d 398 (6th Cir 2006).
- (Section 3B "Specificity of Trade Secrets"); 2006 U.S. App. Lexis 30628
- *Atlantic Research Marketing Systems, Inc. v. Stephen P. Troy*, (Fed. Cir. 2011) 2011-1002, - 1003, (Section III, pp. 17-20)

## **7. Lecture on U.S. Trade Secret Law and Trade Secret Protection in Foreign Countries/Course Review - March 3, 2026**

- Lecture - U.S. Trade Secret Law (18 USC ~ 1831-39) US Attorney
- Lecture Foreign Protection & Review

West's Annotated Code of Virginia [Currentness](#) Title 59.1. Trade and Commerce

→ [Chapter](#) 26. Uniform Trade Secrets Act ([Refs & Annos](#))

→ [§ 59.1-336. Short title and definitions](#)

As used in this chapter, which may be cited as the Uniform Trade Secrets Act, unless the context requires otherwise:

“Improper means” includes theft, bribery, misrepresentation, use of a computer or computer network without authority, breach of a duty or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

“Misappropriation” means:

1. Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
2. Disclosure or use of a trade secret of another without express or implied consent by a person who
  - a. Used improper means to acquire knowledge of the trade secret; or
  - b. At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was
    - (1) Derived from or through a person who had utilized improper means to acquire it;

- (2) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use;
- (3) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
- (4) Acquired by accident or mistake.

“Person” means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

“Trade secret” means information, including but not limited to, a formula, pattern, compilation, program, device, method, technique, or process, that:

- 1. 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
- 2. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

→ **§ 59.1-337. Injunctive relief**

- A. 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.

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

→ **§ 59.1-338. Damages**

- A. Except where the user of a misappropriated trade secret has made a material and prejudicial change in his position prior to having either knowledge or reason to know of the misappropriation and the court determines that a monetary recovery would be 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. If a complainant is unable to prove a greater amount of damages by other methods of measurement, the damages caused by misappropriation can be measured exclusively by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.
- B. If willful and malicious misappropriation exists, the court may award punitive damages in an amount not exceeding twice any award made under subsection A of this section, or \$350,000 whichever amount is less.

→ [§ 59.1-338.1. Attorneys' fees](#)

If the court determines that (i) a claim of misappropriation is made in bad faith, or (ii) willful and malicious misappropriation exists, the court may award reasonable attorneys' fees to the prevailing party.

→ [§ 59.1-339. Preservation of secrecy](#)

In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include:

1. Granting protective orders in connection with discovery proceedings;
2. Holding in-camera hearings;
3. Sealing the records of the action; and
4. Ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

→ [§ 59.1-340. Statute of limitations](#)

An action for misappropriation shall be brought within three 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.

→ [§ 59.1-341. Effect on other law](#)

A. Except as provided in subsection B of this section, this chapter displaces conflicting tort, restitutionary, and other law of this Commonwealth providing civil remedies for misappropriation of a trade secret.

B. This chapter does 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.

→ [§ 59.1-342. Omitted](#)

→ [§ 59.1-343. Time of taking effect](#)

This chapter shall become effective on July 1, 1986, and shall not apply to misappropriation occurring prior to the effective date. With respect to a continuing misappropriation that began prior to the effective date, the chapter also shall not apply to misappropriation that occurs after the effective date.

END OF DOCUMENT

United States Code Annotated [Currentness](#)

Title 18. Crimes and Criminal Procedure ([Refs & Annos](#)) <sup>⌵</sup> [Part](#) I. Crimes ([Refs & Annos](#))

→ [Chapter](#) 90. Protection of Trade Secrets

→ [§ 1831. Economic espionage](#)

(a) **In general.**--Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly--

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than \$5,000,000 or imprisoned not more than 15 years, or both.

- (b) **Organizations.**--Any organization that commits any offense described in subsection (a) shall be fined not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided.

→ **§ 1832. Theft of trade secrets**

- (a) Whoever, with intent to convert a trade secret, that is related to a product or service used in or intended for use in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly--

- (1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;
- (2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;
- (3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;
- (4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy, shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

(b) Any organization that commits any offense described in subsection (a) shall be fined not more than \$5,000,000.

#### → [§ 1833. Exceptions to prohibitions](#)

This chapter does not prohibit--

- (1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or
- (2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

#### → [§ 1834. Criminal forfeiture](#)

Forfeiture, destruction, and restitution relating to this chapter shall be subject to [section 2323](#), to the extent provided in that section, in addition to any other similar remedies provided by law.

→ [§ 1835. Orders to preserve confidentiality](#)

In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

→ [§ 1836. Civil proceedings to enjoin violations](#)

- (a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this chapter.
- (b) The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section.

→ [§ 1837. Applicability to conduct outside the United States](#)

This chapter also applies to conduct occurring outside the United States if--

- (1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or



(2) an act in furtherance of the offense was committed in the United States.

→ **§ 1838. Construction with other laws**

This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under [section 552 of title 5](#) (commonly known as the Freedom of Information Act).

→ **§ 1839. Definitions**

As used in this chapter--

- (1) the term “foreign instrumentality” means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;
- (2) the term “foreign agent” means any officer, employee, proxy, servant, delegate, or representative of a foreign government;
- (3) the term “trade secret” means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, proto- types, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if--

- (A) the owner thereof has taken reasonable measures to keep such information secret; and
  - (B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and
- (4) the term “owner”, with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

## Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703 -380-1434 or Counseling and Psychological Services (CAPS) at 703 -993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703 -993-8730, or emailing [titleix@gmu.edu](mailto:titleix@gmu.edu).

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-991-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[Student Conduct](#)

[University Life](#)