

OHIO UNIFORM TRADE SECRETS ACT

1333.61 to 1333.69

1333.61 Uniform trade secrets act definitions.

As used in sections 1333.61 to 1333.69 of the Revised Code, unless the context requires otherwise:

(A) "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.

(B) "Misappropriation" means any of the following:

(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;

(2) Disclosure or use of a trade secret of another without the express or implied consent of the other person by a person who did any of the following:

(a) Used improper means to acquire knowledge of the trade secret;

(b) At the time of disclosure or use, knew or had reason to know that the knowledge of the trade secret that the person acquired was derived from or through a person who had utilized improper means to acquire it, was acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use, or was derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use;

(c) Before a material change of their 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.

(C) "Person" has the same meaning as in division (C) of section 1.59 of the Revised Code and includes governmental entities.

(D) "Trade secret" means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

(1) It 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.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

1333.62 Injunction against misappropriation.

(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, unless the court finds that termination of the injunction is likely to provide a person who committed an actual or threatened misappropriation with a resulting commercial

advantage, in which case the injunction shall be continued for an additional reasonable 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 time for which use could have been prohibited. Exceptional circumstances include 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.

1333.63 Damages recoverable.

(A) 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 in a civil action is entitled to recover damages for misappropriation. Damages may 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 that is equitable under the circumstances considering the loss to the complainant, the benefit to the misappropriator, or both, for a misappropriator's unauthorized disclosure or use of a trade secret.

(B) If willful and malicious misappropriation exists, the court may award punitive or exemplary damages in an amount not exceeding three times any award made under division (A) of this section.

1333.64 Attorney's fees.

The court may award reasonable attorney's fees to the prevailing party, if any of the following applies:

(A) A claim of misappropriation is made in bad faith.

(B) A motion to terminate an injunction is made or resisted in bad faith.

(C) Willful and malicious misappropriation exists.

1333.65 Authorized means of preserving secrecy.

In an action under sections 1333.61 to 1333.69 of the Revised Code, a court shall preserve the secrecy of an alleged trade secret by reasonable means that 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.

1333.66 Time for commencing action.

An action for misappropriation shall be commenced within four 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.

1333.67 Conflicting laws displaced - remedies not affected.

(A) Except as provided in division (B) of this section, sections 1333.61 to 1333.69 of the Revised Code displace conflicting tort, restitutionary, and other laws of this state providing civil remedies for misappropriation of a trade secret.

(B) Sections 1333.61 to 1333.69 of the Revised Code do not affect any of the following:

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

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

(3) Criminal remedies, including those in other sections of this chapter, whether or not based on misappropriation of a trade secret.

1333.68 Uniformity of application and construction of provisions.

Sections 1333.61 to 1333.69 of the Revised Code shall be applied and construed to effectuate their general purpose to make uniform the law with respect to their subject among states enacting them.

1333.69 Title of act.

Sections 1333.61 to 1333.69 of the Revised Code may be cited as the "Uniform Trade Secrets Act."