

**INTELLECTUAL
PROPERTY ALERT**

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*Specializing in Trademark,
Copyright, Design Patent and
Trade Secrets*

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President Obama Signs the DTSA into Law

On May 11, 2016, President Obama signed the Defend Trade Secrets Act of 2016 (“DTSA”) into law. The DTSA amends the Economic Espionage Act (which was limited to criminal enforcement of trade secret theft) and provides litigants a federal civil right of action for the misappropriation of trade secrets. Indeed, the DTSA finally recognizes trade secrets as one of the “Big Four” intellectual property assets (along with copyrights, patents, and trademarks) worthy of federal protection.

The DTSA is in some respects similar but in many respects different than its state counterpart, the California Uniform Trade Secrets Act (“CUTSA”), Cal. Civ. Code Sections 3426, *et seq.*, which prior to the DTSA used to exclusively govern trade secrets claims in this State. For instance, like the DTSA, the CUTSA provides plaintiffs remedies, including injunctive relief, damages, restitution, and, in certain cases, attorney’s fees, for the misappropriation of trade secrets. Unlike the CUTSA, the DTSA provides litigants the ability to seek an *ex parte* civil seizure order (subject to certain safeguards) and contains a significant immunity provision protecting whistleblowers.

That immunity provision requires an employer to provide notice of the immunity in any contract or agreement with an “employee” (a term that is defined to also include independent contractors and consultants). If an employer fails to comply with this notice requirement, an employer is prevented from recovering exemplary damages and attorney’s fees on claims brought under the DTSA.

The DTSA passed by an overwhelming margin in the House of Representatives and by unanimous vote in the Senate. The DTSA’s enactment into law provides litigants with yet another tool to help protect and remedy the theft of their valuable intellectual property assets.

Written by [Arash Beral](#), Partner

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