

## TRADE SECRET DEFINED



The term “Trade Secret” means all forms and types of financial, business, scientific, technical, engineering or economic information, including patterns, plans, compilations, program devices, prototypes, formulas, designs, procedures, methods, techniques, codes, processes, or programs, 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.

## COMPANY RESPONSIBILITY



To take reasonable measures to keep trade secret information secret.

## CONTACTING THE FBI



To report violations or to obtain additional information about the Economic Espionage Act or other national security matters, contact the local FBI Awareness of National Security Issues and Response (ANSIR) Coordinator. Telephone numbers for FBI field offices are listed in most telephone directories and on the FBI home page on the Internet:

[www.fbi.gov](http://www.fbi.gov)

**NATIONAL SECURITY**  
  
**BEGINS WITH YOU**

Prepared by the  
**Community Training Branch**  
**National Counterintelligence Center**



## THE ECONOMIC ESPIONAGE ACT OF 1996



## A BRIEF GUIDE



## TERRITORIAL LIMITS



Outlaws economic espionage where:

1. The conduct occurs in the U.S., or
2. The conduct occurs outside the U.S. and either:
  - a. An Act in furtherance of the offense was committed in the U.S., or
  - b. The offender is a U.S. person or organization.

## GUARDS CONFIDENTIALITY



The court must issue orders necessary to protect the confidentiality of trade secrets consistent with Federal Rules of procedure and the Constitution. Also, the prosecution is permitted to immediately appeal any order authorizing or directing disclosure of a trade secret.

## CRIMINAL PROVISIONS



1. Imposes up to a 15 year prison term and/or a maximum \$500 thousand fine on any person and \$10 million fine on any organization who steals or destroys a trade secret of value with intent to benefit any foreign power. (Title 18 USC – 1831)
2. Imposes up to a 10 year prison term and/or a maximum \$250 thousand fine on any person and a \$5 million fine on any organization who knowingly steals or destroys any trade secret with intent to:
  - a. Economically benefit anyone other than the owner; and
  - b. Injure the owner of the trade secret. (Trade 18 USC – 1832)

## FORFEITURE



Requires the forfeiture to the U.S. Government of proceeds or property derived from economic espionage and may require forfeiture of property used to commit economic espionage. The victim can apply to the U.S. for restitution.

## CIVIL RELIEF



The Government can apply for injunctive relief to prevent trade secret crimes.

## OWNER DEFINED



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.