

## Tex. Civ. Prac. & Rem. Code § 134A.002

This document is current through the 2023 Regular Session; the 1st C.S.; the 2nd C.S.; the 3rd C.S. and the 4th C.S. of the 88th Legislature; and the November 7, 2023 general election results.

*Texas Statutes & Codes Annotated by LexisNexis® > Civil Practice and Remedies Code > Title 6  
Miscellaneous Provisions (Chs. 121 — 150E) > Chapter 134A Trade Secrets (§§ 134A.001 — 134A.008)*

### Sec. 134A.002. Definitions.

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In this chapter:

- (1) “Claimant” means a party seeking to recover damages under this chapter, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff. In an action in which a party seeks recovery of damages under this chapter on behalf of another person, “claimant” includes both that other person and the party seeking recovery of damages.
- (1-a) “Clear and convincing” means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.
- (2) “Improper means” includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, to limit use, or to prohibit discovery of a trade secret, or espionage through electronic or other means.
- (3) “Misappropriation” means:
  - (A) 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
  - (B) disclosure or use of a trade secret of another without express or implied consent by a person who:
    - (i) used improper means to acquire knowledge of the trade secret;
    - (ii) at the time of disclosure or use, knew or had reason to know that the person’s knowledge of the trade secret was:
      - (a) derived from or through a person who used improper means to acquire the trade secret;
      - (b) acquired under circumstances giving rise to a duty to maintain the secrecy of or limit the use of the trade secret; or
      - (c) derived from or through a person who owed a duty to the person seeking relief to maintain the secrecy of or limit the use of the trade secret; or

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(iii) before a material change of the position of the person, knew or had reason to know that the trade secret was a trade secret and that knowledge of the trade secret had been acquired by accident or mistake.

(3-a) “Owner” means, with respect to a trade secret, the person or entity in whom or in which rightful, legal, or equitable title to, or the right to enforce rights in, the trade secret is reposed.

(4) “Proper means” means discovery by independent development, reverse engineering unless prohibited, or any other means that is not improper means.

(5) “Reverse engineering” means the process of studying, analyzing, or disassembling a product or device to discover its design, structure, construction, or source code provided that the product or device was acquired lawfully or from a person having the legal right to convey it.

(6) “Trade secret” means all forms and types of information, including business, scientific, technical, economic, or engineering information, and any formula, design, prototype, pattern, plan, compilation, program device, program, code, device, method, technique, process, procedure, financial data, or list of actual or potential customers or suppliers, whether tangible or intangible and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if:

(A) the owner of the trade secret has taken reasonable measures under the circumstances to keep the 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, another person who can obtain economic value from the disclosure or use of the information.

(7) “Willful and malicious misappropriation” means intentional misappropriation resulting from the conscious disregard of the rights of the owner of the trade secret.

## History

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Enacted by Acts 2013, 83rd Leg., ch. 10 (S.B. 953), § 1, effective September 1, 2013; Acts 2017, 85th Leg., ch. 37 (H.B. 1995), § 1, effective September 1, 2017.

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