

ALM GL ch. 93, § 42

Current through Chapter 59 of the 2024 Legislative Session of the 193rd General Court

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§ 42. Definitions.

As used in this section and in sections 42A to 42G, inclusive, the following words, shall unless the context clearly requires otherwise, have the following meanings:

- (1) “Improper means”, includes, without limitation, theft, bribery, misrepresentation, unreasonable intrusion into private physical or electronic space, or breach or inducement of a breach of a confidential relationship or other duty to limit acquisition, disclosure or use of information; reverse engineering from properly accessed materials or information is not improper means.
- (2) “Misappropriation”,
 - (i) an act of acquisition of a trade secret of another by a person who knows or who has reason to know that the trade secret was acquired by improper means; or
 - (ii) an act of disclosure or of use of a trade secret of another without that person’s 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 the actor’s disclosure or use, knew or had reason to know that the actor’s knowledge of the trade secret was
 - (I) derived from or through a person who had utilized improper means to acquire it;
 - (II) acquired under circumstances giving rise to a duty to limit its acquisition, disclosure, or use; or
 - (III) derived from or through a person who owed a duty to the person seeking relief to limit its acquisition, disclosure, or use; or
 - (C) before a material change of the actor’s position, knew or had reason to know that it was a trade secret and that the actor’s knowledge of it had been acquired by accident, mistake, or through another person’s act described in clause (A) of paragraph (ii) or subclauses (I) or (II) of clause (B) of said paragraph (ii) of the definition of Misappropriation.

§ 42. Definitions.

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

(4) “Trade secret”, specified or specifiable information, whether or not fixed in tangible form or embodied in any tangible thing, including but not limited to a formula, pattern, compilation, program, device, method, technique, process, business strategy, customer list, invention, or scientific, technical, financial or customer data that

(i) at the time of the alleged misappropriation, provided economic advantage, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, others who might obtain economic advantage from its acquisition, disclosure or use; and

(ii) at the time of the alleged misappropriation was the subject of efforts that were reasonable under the circumstances, which may include reasonable notice, to protect against it being acquired, disclosed or used without the consent of the person properly asserting rights therein or such person’s predecessor in interest.

History

1967, 817, § 3; 2018, 228, § 19, effective August 3, 2018.

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