Proskauer

Tenth Circuit Clarifies Distinction Between “Ownership” and “Possession” in Trade Secret Claims

Proskauer on Trade Secrets on **October 27, 2025**

The Tenth Circuit recently held that an employee who failed to take adequate steps to protect confidential business information could not maintain claims against his former employer for trade secret misappropriation under either federal or state law. In *Snyder v. Beam Technologies, Inc.*, 147 F.4th 1246 (Aug. 5, 2025), where the plaintiff alleged violations of the Defend Trade Secrets Act (“DTSA”) and the Colorado Uniform Trade Secrets Act (“CUTSA”), the court emphasized that protection under both statutes turns on whether the claimant took sufficient steps to maintain the information’s secrecy. The decision also clarified a distinction between the two statutes: while the DTSA permits suit only by an “owner” of a trade secret, the CUTSA allows a “complainant,” such as a lawful possessor, to bring a claim.

Background

Before joining the defendant in 2018, the plaintiff worked for an insurance company, where he allegedly downloaded a nationwide list of insurance brokers and sent it to his personal email. While working for the defendant, he allegedly used the list to create three state-specific spreadsheets, but inadvertently included the full list in each. He allegedly emailed the spreadsheets to coworkers without marking them confidential or restricting access, and allegedly took no steps to retrieve the materials once he realized the mistake. The plaintiff’s employment was later terminated, and he subsequently sued his former employer, alleging misappropriation of trade secrets under the DTSA and CUTSA.

The Tenth Circuit’s Decision

The District Court granted summary judgment for the employer, finding that the plaintiff had not shown ownership of the list of insurance brokers, which it treated as a necessary element of both his state and federal trade secret claims. On appeal, the Tenth Circuit agreed that the DTSA requires ownership, but noted that under the CUTSA, a plaintiff's "possession," not necessarily ownership, may suffice. The court thus declined to affirm summary judgment on the CUTSA claim based on the plaintiff's lack of "ownership" of the insurance broker list. Nonetheless, the court affirmed summary judgment on other grounds, holding that the plaintiff failed to show he took reasonable measures to protect the secrecy of the list.

The Tenth Circuit explained that the plaintiff failed to take reasonable steps to prevent disclosure of the list. Merely storing the list on personal or password-protected devices was insufficient, and sending the full list to coworkers without confidentiality markings or restrictions destroyed any claim of secrecy. Although an accidental disclosure does not automatically forfeit trade secret status, the plaintiff took no action to mitigate or recover the information. Accordingly, the court affirmed summary judgment for the defendant on the plaintiff's DTSA and CUTSA claims.

View original.

Related Professionals

- **Scott S. Tan**
  Associate
- **Steven J. Pearlman**
  Partner