

CLIENT ALERT

New Jersey Adopts the Uniform Trade Secrets Act

January 31, 2012

On January 9, 2012, Governor Chris Christie signed into law the New Jersey Trade Secrets Act ("NJTSA"), which is modeled after the Uniform Trade Secrets Act ("UTSA"). New Jersey joins 45 other states and the District of Columbia in enacting a trade secret statute modeled on the UTSA.

The NJTSA generally follows the UTSA, but with a few key differences.

- The NJTSA defines a "trade secret" more broadly than the UTSA, and extends protection to various other forms in which trade secrets can exist, including a "design, diagram, drawing, invention, plan, procedure, [or] prototype."
- The NJTSA augments, rather than displaces, New Jersey common law remedies for misappropriation of a trade secret.
- The NJTSA is silent as to whether courts must seek uniformity with other states applying the UTSA.
- The NJTSA provides greater clarity about the conduct that may give rise to a trade secrets claim, by expressly distinguishing between "proper" and "improper" means of obtaining trade secrets. Under the NJTSA, acquiring a trade secret by independent invention, reverse engineering, a license, published literature, or public observation is a complete defense.
- The NJTSA provides a presumption in favor of granting protective orders to preserve the secrecy of an alleged trade secret during litigation.

Only four states remain without a statute modeled after the UTSA – Massachusetts, North Carolina, New York, and Texas.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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