

MISAPPROPRIATION OF TRADE SECRETS

Sikich has extensive resources in dispute advisory, damages calculations, fraud investigations, eDiscovery, computer forensics, data analytics, valuation, and insurance claims.

Sikich will provide sophisticated, resourceful and objective expertise to your business with our forensic accountants, auditors, certified fraud examiners, former city government inspector general, cyber security and computer forensic specialists, data analytics experts, and credentialed valuation experts.

The Sikich dispute advisory team has significant experience in quantifying damages as an expert witness and/or consultant in the following types of cases involving misappropriation of trade secrets:

- Breach of contract
- Breach of fiduciary duty
- Cybersecurity
- Employment (covenant not-to-compete)
- Fraud
- Unfair competition
- Intellectual property
- Technology and licensing disputes
- Tortious interference
- Shareholder/partner/member disputes
- White collar criminal law

The following is a list of examples of items that could potentially be considered trade secrets:

- Recipes
- Formulations
- Manufacturing processes
- Engineering drawings/blueprints/notebooks
- Algorithms
- Measurements
- Test results
- Software
- New ideas
- Tools
- Negative information on what doesn't work
- Customer information
- Business information
- Technical information
- Databases / data compilations / data files
- Supplier information
- Pricing information
- Profit margin information
- IT systems and applications
- Business and marketing plans
- Surveys
- Confidential and proprietary information

According to Section 3(a) of the Uniform Trade Secrets Act, "Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of trade secret."

Sikich is a national accounting, technology and advisory services firm founded in 1982 in Naperville, Illinois. Its culture is highly focused on the client experience – with an end-goal of being a trusted partner and relationship builder through a hands-on, industry-specialized service approach. With more than 750 employees and 21 offices throughout the country, Sikich ranks among the Top 35 CPA firms and among the Top 10 of all enterprise resource planning solution partners.

For more information about our services, visit www.sikich.com.

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The Sikich dispute advisory team has significant experience in quantifying trade secrets damages to both plaintiffs and defendants:

- Calculated the plaintiff's actual losses from misappropriation of trade secrets (make the plaintiff "whole" after the alleged event)
 - Plaintiff's lost profits (profits that the plaintiff would have received but for the defendant's act of misappropriation and including lost sales on conveyed/ancillary products or services that would be sold together with the product or service using the trade secret)
 - Plaintiff's diminution in value of business
 - Plaintiff's lost value of trade secrets
 - Plaintiff's costs of research and development
 - Plaintiff's cost to restore the effects of the misappropriation of the trade secrets
 - Plaintiff's increased costs caused by the defendant's act of misappropriation
 - Plaintiff's price erosion because the plaintiff had to lower prices to compete with the defendant's use or disclosure of the trade secret
- Calculated defendant's benefits from misappropriation of trade secrets (measuring the financial gains realized by the defendant)
 - Defendant's unjust enrichment
 - Defendant's profits from sales to existing and new customers
 - Defendant's avoided research and development
 - Defendant's head-start advantage (time savings and acceleration to market)
 - Defendant's cost efficiencies and increased operating profits
 - Defendant's value of the trade secrets taken by the defendant as of the date of the misappropriation
 - Defendant's risk reduction and increased business value from lower risk associated with future cash flow
- Calculated what a reasonable royalty would be
 - Calculated royalty base
 - Determined applicable royalty rate

