A Few Facts About

THE UNIFORM TRADE SECRETS ACT

PURPOSE: Providing states with a legal framework for improved trade secret protection to industry.

ORIGIN: Completed by the Uniform Law Commissioners in 1979, and amended in 1985.

ENDORSED BY: American Bar Association

STATE ADOPTIONS OF 1979 UTSA:

Arkansas	Idaho	Montana
California	Illinois*	Rhode Island
Connecticut	Indiana	North Dakota
Delaware	Louisiana	Washington

ADOPTIONS WITH 1985 AMENDMENTS:

Alabama*	Maine	South Dakota*
Alaska*	Minnesota	Virginia
Colorado	Nevada	West Virginia
Florida*	Oklahoma	Wisconson
Kansas*	Oregon	

1988 INTRODUCTIONS WITH 1985 AMENDMENTS:

District of Columbia	New Hampshire
Maryland	New Jersey
	South Carolina
	Utah

INTRODUCTIONS OF 1985 AMENDMENTS ONLY:

NEED A SPEAKER? This person is available to provide testimony or give presentations on the Uniform Trade Secrets Act:

Richard F. Dole
Houston, Texas
Drafting Committee

For information on arranging a speaker, contact John McCabe or Katie Robinson at 312-915-0195.

UNIFORM TRADE SECRETS ACT

At the common law, misappropriation of a trade secret could give rise to a remedy. However, the existing law contains many uncertainties and ambiguities. The Uniform Trade Secrets Act is an effort to codify the common law with proper clarification of rights and remedies.

A trade secret is, basically, information of commercial value. The form of that information can be exceedingly variable. Key to the need for protection is the fact that the information is not generally known to others and is not readily ascertainable by proper means. A trade secret, generally, would be exclusive knowledge, of economic value, which has been generated by the labors of a specific person or persons who have an interest in protecting its value.

Such information may be patentable or subject to copyright. This makes no difference. Patents and copyrights provide only a limited monopoly. It may be in the best interests of those who have patentable ideas or information subject to copyright to keep their secrets, rather than to take the limited monopoly. The essence of trade secrets protection is that a person with a trade secret may have a remedy in equity and law, if the secret has been misappropriated.

"Misappropriation" means acquiring a trade secret by "improper means" or from someone who has acquired it through "improper means." Things like theft, bribery, and misrepresentation are "improper means." Misappropriation, also, includes disclosure and use of a trade secret acquired through "improper means." If there is a misappropriation, the injured person may have injunctive relief and damages. Injunctive relief may extend into the future, and may condition future use on a proper royalty. Damages include actual loss and unjust enrichment. If there is willful and malicious "misappropriation," there may be exemplary damages. Exemplaries are limited to twice the actual damages.

Problems with industrial espionage and conflicting claims over valuable ideas have made clear trade secrets protection law necessary. The law must respond to a technological society. The Uniform Trade Secrets Act is the means to relieve the difficulties.