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New Federal Trade Secret Protection Signed Into Law

Business owners have gained a new weapon to combat misappropriation of trade secrets, the **Defend Trade Secrets Act of 2016**. The Act, which was signed into law by President Obama on May 11, 2016, enables business owners to bring civil actions in federal court for misappropriation of trade secrets, such as customer lists, manufacturing techniques or source code. The Act also creates the new remedy of civil seizure, by which a federal court may authorize federal law enforcement officials to seize trade secret information anywhere in the United States before it can be moved, hidden or otherwise made inaccessible.

The Act's civil seizure remedy is intended to be a quicker and more effective way to protect trade secrets than a conventional temporary restraining order, but requires significantly higher standards of proof. To obtain a civil seizure order, a business owner must show that a conventional temporary restraining order would be inadequate, that the defendant is in actual possession of the trade secret information, and that the defendant would likely destroy, hide or otherwise make such matter inaccessible if given notice beforehand.

In addition to the civil seizure remedy, the Act provides for conventional injunctive relief and damages, including exemplary damages of up to two times actual damages in cases of willful misappropriation. The Act balances the rights of individual employees by prohibiting injunctions that would prevent a person from entering into an employment relationship, or that would otherwise conflict with applicable state law prohibiting restraints on trade.

By making it easier for business owners to enforce their trade secret rights in federal courts, the Act has the potential to significantly enhance their ability to protect this valuable intellectual property.

For questions about the **Defend Trade Secrets Act of 2016** or other intellectual property issues, please contact:

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