

European Union to Adopt Union-Wide Trade Secrets Law

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In a move heralded by businesses and intellectual property attorneys alike, the European Commission recently indicated that, on Nov. 27, 2013, it will adopt a proposed directive to harmonize national laws making a comparable system of redress for misappropriation of trade secrets available across the Union. It may be several months or years before member nations adopt the proposed standards and they become fully implemented. Currently, individual member nations apply a patchwork of trade secret laws. The commission said recently, "[e]very company large or small in any sector uses confidentiality to gain a competitive advantage. But there are important differences between the levels of protection offered across the EU for defending trade secrets against unfair practices." Those seeking to steal the trade secrets of a business can exploit the discrepancies among member nations' laws regarding the definition of trade secrets, discovery procedures, penalties, and enforcement. *The New York Times* recently reported, "The theft of trade secrets has long frustrated companies doing business in Europe. The lack of tough trade secret protections has resulted in any number of Asian-made knockoffs being sold in Europe, and the original producers often have little legal recourse." Another impetus for the action, according to the *Times*, is heightened concern in Europe about state sponsored spying on companies, and the growing uncertainties businesses face due to cyber-attacks. In the United States, most states have adopted a version of the Uniform Trade Secrets Act and provide injunctive relief and civil and criminal penalties for the misappropriation of trade secrets. European and U.S. industrial, chemical, biotechnology, and engineering companies have pushed for similar protections in Europe. The new rules should make it easier for corporations that do business across the EU to protect and enforce their competitive advantages, which are often obtained at significant research and development cost.

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