

VETOES

(1) DERIVES INDEPENDENT ECONOMIC VALUE, ACTUAL OR POTENTIAL, FROM NOT BEING GENERALLY KNOWN TO, AND NOT BEING READILY ASCERTAINABLE BY PROPER MEANS BY, OTHER PERSONS WHO CAN OBTAIN ECONOMIC VALUE FROM ITS DISCLOSURE OR USE; AND

(2) IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE UNDER THE CIRCUMSTANCES TO MAINTAIN ITS SECRECY.

12-1102 11-1202.

(A) ACTUAL OR THREATENED MISAPPROPRIATION MAY BE ENJOINED.

(B) ON APPLICATION TO THE COURT, AN INJUNCTION SHALL BE TERMINATED WHEN THE TRADE SECRET HAS CEASED TO EXIST, BUT THE INJUNCTION MAY BE CONTINUED FOR AN ADDITIONAL REASONABLE PERIOD OF TIME IN ORDER TO ELIMINATE COMMERCIAL ADVANTAGE THAT OTHERWISE WOULD BE DERIVED FROM THE MISAPPROPRIATION.

(C) IN EXCEPTIONAL CIRCUMSTANCES, AN INJUNCTION MAY CONDITION FUTURE USE UPON PAYMENT OF A REASONABLE ROYALTY FOR NO LONGER THAN THE PERIOD OF TIME FOR WHICH USE COULD HAVE BEEN PROHIBITED.

(D) IN APPROPRIATE CIRCUMSTANCES, AFFIRMATIVE ACTS TO PROTECT A TRADE SECRET MAY BE COMPELLED BY COURT ORDER.

(E) IN THIS SECTION "EXCEPTIONAL CIRCUMSTANCES" INCLUDES A MATERIAL AND PREJUDICIAL CHANGE OF POSITION BEFORE ACQUIRING KNOWLEDGE OR REASON TO KNOW OF MISAPPROPRIATION THAT RENDERS A PROHIBITIVE INJUNCTION INEQUITABLE.

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(A) EXCEPT TO THE EXTENT THAT A MATERIAL AND PREJUDICIAL CHANGE OF POSITION BEFORE ACQUIRING KNOWLEDGE OR REASON TO KNOW OF MISAPPROPRIATION RENDERS A MONETARY RECOVERY INEQUITABLE, A COMPLAINANT IS ENTITLED TO RECOVER DAMAGES FOR MISAPPROPRIATION.

(B) DAMAGES UNDER THIS SUBTITLE MAY INCLUDE:

(1) THE ACTUAL LOSS CAUSED BY MISAPPROPRIATION; AND

(2) THE UNJUST ENRICHMENT CAUSED BY MISAPPROPRIATION THAT IS NOT TAKEN INTO ACCOUNT IN COMPUTING ACTUAL LOSS.

(C) 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 A TRADE SECRET.