

SERBIA: CORPORATE / INTELLECTUAL PROPERTY

New Law on Trade Secret Protection ¹

The new Serbian Law on Trade Secret Protection broadly defines a trade secret as any undisclosed information that has commercial value because it is not generally known or accessible to third parties who could generate economic benefit by using or disclosing such information, which is adequately protected by its owner and the disclosure of which could cause damage to its owner.

Test and research data submitted to state authorities for the purpose of obtaining various permits and approvals are also considered trade secrets.

Infringement of a trade secret is defined as any activity which breaches the law and good business practices and results in the disclosure, acquisition or use of information representing a trade secret without the consent of its owner. An infringement committed in the course of one's trade is considered an act of unfair competition.

Civil law remedies for the infringement of a trade secret are: (i) injunction on illegal acquisition, use or disclosure of a trade secret, as well as on the activities that may lead to such infringement; (ii) seizure of and withdrawal from the market, alteration or destruction of all products that contain information representing a trade secret, if such information is directly or indirectly visible or transferrable; (iii) injunction on imports of infringing products; (iv) damages (direct damages and lost profits) and in case of intentional or grossly negligent infringement, treble damages; (v) compensation of costs, including legal costs; and/or (vi) publication of judgment.

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The law also provides for preliminary injunctions (temporary seizure of the infringing goods and/or manufacturing facilities; temporary ban on the infringing activities) and allows an Anton Piller-type of injunction when it is possible that evidence may be destroyed.

A claim for trade secret infringement is time-barred after 6 months from the claimant becoming aware of the infringement and in any case within 3 years from the infringement having been committed.

Protection lasts for as long as the relevant information is kept as confidential.

The new law also provides that the owner of a trade secret may assign the right to use the trade secret.

¹ Law on Legal Protection of a Trade Secret (*Zakon o zaštiti poslovne tajne*, „Službeni Glasnik RS“, br. 72/2011)