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Unfair Competition Lawsuits Test Your Full Game

Injunctive Relief, Employment Agreements, Trade Secrets and More

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Trade Secrets and Preliminary Relief: The “Reasonable Particularity” Requirement and Strategies for Plaintiffs and Defendants

A plaintiff’s ability to adequately identify trade secrets that have allegedly been misappropriated has become an increasingly important and commonly litigated issue under the Defend Trade Secrets Act (DTSA) (and under state law equivalents as well).

In contrast to other forms of intellectual property, where the subject matter has already been identified and in most cases registered, trade secrets are not subject to any registration requirement. Broad categories of information are eligible for protection as trade secrets provided that the information satisfies the statutory definition. Indeed, by definition, trade secrets must be “secret” and cannot be identified publicly without destroying the subject matter of the plaintiff’s legal claim – and the protection afforded trade secrets. Obviously, however, defendants still must know what secrets they are being accused of misappropriating – and courts must understand what the dispute is actually about. Thus, a plaintiff must show that the trade secret information that has allegedly been misappropriated actually constitutes a trade secret.

Parties, and the courts, have increasingly focused on this issue in determining whether the plaintiff can or has met its burden of demonstrating misappropriation. Courts have dismissed lawsuits under the DTSA for the failure by plaintiff to identify the trade secrets with “reasonable particularity,” and denied preliminary injunctive relief on the same basis.

More specifically, federal courts in particular have developed a robust and fairly consistent body of law requiring DTSA plaintiffs to identify their alleged trade secrets with sufficient particularity as a prerequisite for obtaining—and as a condition of sustaining—a preliminary injunction. The statutory text of 18 U.S.C. § 1836(b)(3)(A) authorizes courts to grant injunctions to prevent actual or threatened misappropriation, and 18 U.S.C. § 1839(3) broadly defines trade secrets, but neither provision specifies a particularity standard. Courts have filled this gap by holding that a DTSA plaintiff must describe each alleged trade secret specifically enough to (a) separate it from general or publicly known information in the relevant trade, (b) permit the defendant to understand the bounds of the claim and prepare a defense, and (c) allow the court to evaluate whether the DTSA’s statutory elements—reasonable secrecy measures and independent economic value—are satisfied. When a plaintiff fails to meet this standard, courts have uniformly vacated or denied the requested injunction.

It follows that, absent a clear delineation of what is claimed as a trade secret, the plaintiff cannot establish a likelihood of success on the merits or irreparable harm, courts cannot craft an enforceable order consistent with Rule 65(d)’s specificity requirements, and due process concerns arise. Courts increasingly require pre-discovery or pre-injunction identification, grounded in policy rationales that include fair notice, avoidance of fishing expeditions, protection of lawful competition and the public domain, and enabling the crafting of appropriately narrow relief. Where a plaintiff’s identification is vague or overly broad, preliminary injunctive relief may (and should) be denied or strictly limited.

Preliminary Injunction Standards and the Importance of “Specificity”

To obtain a preliminary injunction, a plaintiff typically must demonstrate: (a) a likelihood of success on the merits; (b) a likelihood of irreparable harm absent relief; (c) that the balance of equities tips in its favor; and (d) that the public interest favors an injunction. While formulations can vary, the first two factors are often dispositive at the threshold.

Likelihood of Success

To show a likelihood of success in a trade secret claim, the plaintiff must prove, at a minimum, that (a) it possesses information that qualifies as a trade secret; (b) it took reasonable measures to keep the information secret; and (c) the defendant misappropriated that information. Without an identification of the trade secrets with reasonable particularity, the court cannot assess whether the information qualifies for protection or whether the alleged conduct constitutes misappropriation of those particular secrets. Conclusory references to categories such as “customer information,” “pricing,” “business strategies,” “algorithms,” or “source code” are insufficient to carry the plaintiff’s burden at the preliminary stage because they do not delineate the specific protectable information as distinct from non-protectable knowledge, general industry practices, or the defendant’s own materials.

Irreparable Harm

A plaintiff must also show that absent an injunction it will suffer harm that is likely and cannot be remedied adequately by damages. If the plaintiff has not specified the trade secrets at issue, it cannot show that imminent use or disclosure of those specific secrets will cause irreparable harm. Generalized claims of competitive harm are inadequate. A clear identification ties the alleged harm to actual protectable assets, enabling the court to evaluate imminence, causation, and the adequacy of legal remedies.

Because both likelihood of success and irreparable harm depend on the identity and contours of the alleged trade secrets, specificity is integral to the preliminary relief analysis.

The “Reasonable Particularity” Requirement and its Purpose

Many courts require plaintiffs to identify alleged trade secrets with reasonable particularity at the outset—often before discovery proceeds and certainly before extraordinary relief issues. Even where not codified, courts apply this requirement as a matter of sound case management and fairness. The principles and justifications include:

Notice

Defendants are entitled to fair notice of the specific information at issue to prepare defenses, evaluate exposure, and fashion declarations or technical showings responsive to the alleged secrets.

Preventing Fishing Expeditions

Without a particularized identification, plaintiffs may use discovery to search the defendant’s information and retroactively define their “secrets” as something defendant is using - effectively converting discovery into a hunt for claims rather than a means to prove them.

Enabling Targeted Defenses

Defendants must be able to challenge whether the identified information is generally known, readily ascertainable, independently developed, or already possessed by the defendant, and whether reasonable secrecy measures existed. This is only possible when the alleged secrets are clearly delineated.

Crafting Enforceable Relief

Courts require sufficient specificity to frame an injunction that is clear, narrow, and enforceable, avoiding broad restraints that chill lawful competition.

Protecting Public Domain Information

Broad or vague descriptions risk sweeping in public domain materials, general skills and knowledge, or

combinations lacking secrecy, potentially granting de facto monopolies over non-protectable information.

Case Management Efficiency

Early crystallization of the alleged secrets narrows issues, focuses discovery, and facilitates proportionality.

Rule 65(d) Requirements

Fed. R. Civ. P. 65(d) requires that every injunction “state its terms specifically” and “describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.” When a plaintiff has not identified its trade secrets with particularity, the court cannot satisfy this rule without risking vague, overbroad, or incorporation-by-reference orders. Enjoining the use or disclosure of “plaintiff’s trade secrets,” without defining them, delegates to the parties later disputes about scope, invites contempt uncertainty, and impairs enforceability.

“Reasonable particularity” is a flexible standard that accommodates technical and commercial contexts, proprietary compilations, and combination claims. But it consistently requires more than labels and categories; it requires enough detail to distinguish the claimed secret from matters known or knowable to skilled persons in the field and to allow the court and defendant to understand what is and is not in dispute.

Practical Considerations in Disputes Over Trade Secret Identification

In addressing whether a plaintiff has identified trade secrets with reasonable particularity, courts consider pragmatic factors tailored to the alleged secrets’ nature:

Distinguishing Protectable Secrets From General Knowledge/Skill

The description should separate the secret elements from (a) publicly available materials; (b) general methodologies known in the field; and (c) the employee’s general skill, training, and experience. Where compilations or combinations are claimed, the plaintiff should identify the specific combination and how it differs from publicly known combinations.

Document- and Version-Level Specificity

For documents, software, or data sets, the plaintiff should identify particular files, modules, or fields; version numbers; and dates or commit identifiers, rather than citing entire repositories or product lines.

Temporal Scope

The plaintiff should state the time period during which the information was created and maintained as secret, and whether secrecy persists as of the motion. If aspects have become public or obsolete, that should be acknowledged.

Components and Subcomponents

For technical items (e.g., source code, schematics, formulations), the plaintiff should specify components, parameters, tolerances, architectures, or algorithms claimed as secret, as opposed to entire systems. For business information (e.g., pricing, customer lists), the plaintiff should specify fields, segmentation logic, recency, and how the information provides value relative to publicly obtainable data.

Combinations and Compilations

If the trade secret is a compilation, identify (a) the constituent elements; (b) the way they are uniquely

selected, arranged, or weighted; and (c) why the combination is not generally known or readily ascertainable.

Measures Taken to Keep Secret

Reasonable measures, such as access controls, NDAs, labeling, encryption, repository permissions, and need-to-know policies, should be tied to the identified materials. Generic references to corporate policies, without tying them to the specific secrets, are insufficient.

Clarity as to Scope

The description should allow a skilled person to determine what is in and out of scope without guessing. Overinclusive categories such as “all product roadmaps” or “all customer data” fail this test.

Relationship to Accused Conduct

The identification should connect the secrets to the alleged acts of use or disclosure so that the court can assess likelihood of misappropriation and fashion tailored relief limited to the nexus of harm.

Courts often require that this identification be served in a standalone statement or schedule, separate from broad pleading allegations, and verified or supported by a knowledgeable declarant.

The Specificity Standard Under the DTSA

Federal courts of appeals have articulated a fairly consistent standard or set of principles that effectively require a plaintiff to identify alleged trade secrets with “sufficient particularity,” though all agree this is a fact-intensive, case-by-case inquiry rather than a mechanical test. The minimum articulated standard is that “[t]he plaintiff should describe the subject matter of the trade secret with sufficient particularity to separate it from matters of general knowledge in the trade or of special knowledge of those persons skilled in the trade.” *Mallet and Company Inc. v. Lacayo*, 16 F.4th 364 (2021); *Double Eagle Alloys, Inc. v. Hooper*, 134 F.4th 1078 (2025).

The Third Circuit, in *Mallet and Company Inc. v. Lacayo*, 16 F.4th 364 (2021), supplied the most detailed circuit-level treatment of this requirement in the preliminary injunction context. The court held that a preliminary injunction predicated on trade secret misappropriation must adequately identify the allegedly misappropriated trade secrets, and that failure to identify the trade secrets with sufficient specificity renders the court powerless to enforce any trade secret claim. The Third Circuit vacated a preliminary injunction that listed thirteen broad categories of business and technical information—including terms such as “engineering,” “research and development procedures and materials,” and “marketing materials”—on the grounds that such descriptions “could be used to describe documents found in any number of corporations.” The court further held that, because the injunction order failed to adequately identify the information accorded trade secret status, it was non-compliant with Rule 65(d) and had to be vacated. *Id.*

The Federal Circuit, in *Insulet Corp. v. EOFlow, Co. Ltd.*, 104 F.4th 873 (2024), applied the same rigorous standard at the preliminary injunction stage, vacating a district court’s “sweeping” injunction against a competitor in a medical device trade secret case. The Federal Circuit held that “in order to secure a preliminary injunction, Insulet had to establish the likelihood of its success on the merits for at least one, specifically defined, trade secret. It did not do so. Rather, it advanced a hazy grouping of information that the court did not probe with particularity to determine what, if anything, was deserving of trade secret protection.” The district court had defined “trade secret” as “any and all Confidential Information of Insulet” and “any information that contains, derives from, or incorporates such Confidential Information”—a definition the Federal Circuit called “severely overbroad.” The court stressed that adequate particularity requires a court to evaluate specific claimed items against the DTSA’s statutory elements, not simply find that “some substantial set of information” was protected *Insulet Corp. v.*

EOFlow, Co. Ltd., 104 F.4th 873 (2024).

The Tenth Circuit, in Double Eagle Alloys, Inc. v. Hooper, 134 F.4th 1078 (2025), affirmed summary judgment against a specialty metals distributor whose trade secret identification was found lacking. The court held that a plaintiff "must clearly refer to tangible trade secret material instead of referring to a system which potentially qualifies for trade secret protection," and that long lists of general areas of information containing unidentified trade secrets, catchall phrases, and categories of trade secrets fail to satisfy the particularity requirement. Critically, the Tenth Circuit rejected the plaintiff's approach of pointing to thousands of downloaded files, noting the plaintiff "d[id] nothing to distinguish the wheat from the chaff"—i.e., separating information that qualified as a trade secret from information that did not.

The Fourth Circuit, in Sysco Machinery Corporation v. DCS USA Corporation, 143 F.4th 222 (2025), affirmed dismissal of a DTSA claim at the pleading stage where the plaintiff's three different trade secret definitions, considered together, suggested "nearly Sysco's entire business is a trade secret"—a claim the court found so "sweeping and conclusory" as to prevent the defendant from knowing what it had been accused of misappropriating or the court from assessing the statutory elements. The Fourth Circuit also highlighted a distinct problem: one of the plaintiff's definitions included copyrighted technical drawings that had been deposited with the Copyright Office, thereby extinguishing any trade secret protection. The court stressed that courts "insist upon some specificity" in trade secret cases because such claims are the type of claim that has the potential to seriously disrupt ordinary business relationships.

The Second Circuit, in Syntel Sterling Best Shores Mauritius Limited v. The TriZetto Group, Inc., 68 F.4th 792 (2023), declined to articulate a general specificity rule, confirming instead that the issue is "a fact-specific question to be decided on a case-by-case basis." In upholding a jury verdict for the plaintiff, the court identified what adequacy looks like in practice: the plaintiff's witness identified each trade secret by name, described it in detail, tied it to specific documents or source code, and communicated how it was maintained as confidential. Whether the identification was adequate was treated as a question of fact for the jury.

The Ninth Circuit, in InteliClear, LLC v. ETC Global Holdings, Inc., 978 F.3d 653 (2020) and Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc., 149 F.4th 1081 (2025), has similarly required "sufficient particularity" but has treated whether that standard is met as a question of fact, typically resolved at summary judgment or trial rather than dismissed at the pleading or early discovery stage. The Ninth Circuit emphasized that the DTSA—unlike California's Uniform Trade Secrets Act (CUTSA)—does not require early pre-discovery identification of trade secrets with "reasonable particularity." Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc., 149 F.4th 1081 (2025). Rather, the Ninth Circuit observed that in federal trade secret cases, discovery typically provides an iterative process where requests between parties lead to refined and sufficiently particularized trade secret identification. InteliClear, LLC v. ETC Global Holdings, Inc., 978 F.3d 653 (2020).

Application: How Inadequate Identification Warrants Denial or Narrowing of Relief

Where a plaintiff offers only categorical descriptions or sweeping references to "confidential information," it fails to meet its burden on the merits and irreparable harm. The Court should:

1. Deny preliminary injunctive relief without prejudice where the plaintiff has not served a TSIS or where the TSIS lacks reasonable particularity, because the Court cannot determine what is protectable, assess misappropriation likelihood, or craft a Rule 65(d)-compliant order.

2. Alternatively, limit relief to narrowly defined materials adequately identified and shown likely to have been misappropriated, avoiding restraints that encompass public domain information, general skills, or the defendant's independent work.
3. Decline to enter "obey the law" or category-based injunctions (e.g., enjoining use of "customer information" or "product plans") absent precise definitions tethered to specific materials and timeframes.
4. Set a short deadline for a compliant TSIS and sequence expedited, targeted discovery, preserving the possibility of renewed relief once the record is sufficiently developed.

Key Takeaways

- Specificity is foundational to the preliminary injunction analysis in trade secret cases. Without a particularized identification of the trade secrets that have been allegedly misappropriated, a plaintiff cannot show a likelihood of success or irreparable harm.
- Courts are increasingly requiring identification with reasonable particularity before discovery or injunctive relief, to provide notice, prevent fishing expeditions, and allow the court to craft enforceable, narrow orders that respect competition and due process.
- Rule 65(d) requires injunctions that are precise and comprehensible; undefined and/or broadly articulated "trade secrets" cannot support such orders.
- Practical sufficiency turns on whether the plaintiff distinguishes protectable information from general knowledge, identifies specific documents/versions or components, defines temporal scope, explains secrecy measures, and ties the secrets to the accused conduct.
- A structured order requiring a Trade Secret Identification Statement and sequenced discovery offers a fair, efficient path that protects both parties and the integrity of the process.

Appendix A

Plaintiff's Trade Secret Identification Found Insufficient — Injunctive Relief Denied or Vacated	Plaintiff's Trade Secret Identification Found Sufficient — Injunctive Relief Granted or Affirmed
Mallet and Company Inc. v. Lacayo, 16 F.4th 364 (2021) — The Third Circuit vacated a preliminary injunction because the plaintiff identified trade secrets only through thirteen broad categories of business information that could describe any corporation, and the injunction therefore did not comply with Rule 65(d) or demonstrate a likelihood of success on the merits of a trade secret claim.	Syntel Sterling Best Shores Mauritius Limited v. The TriZetto Group, Inc., 68 F.4th 792 (2023) — The Second Circuit upheld a jury verdict for the plaintiff where witnesses identified each trade secret by name, tied it to specific documents or source code, explained how it was developed and its value, and described measures to maintain its confidentiality—illustrating what adequate identification looks like in practice.

Insulet Corp. v. EOFlow, Co. Ltd., 104 F.4th 873 (2024) — The Federal Circuit vacated a sweeping preliminary injunction because the plaintiff advanced "a hazy grouping of information" without identifying at least one specifically defined trade secret, and the district court's definition of "trade secret" as all confidential information marked as such was "severely overbroad."	G&L Plumbing, Inc. v. Kibbe, 699 F.Supp.3d 96 (2023) — The District of Massachusetts granted a preliminary injunction, finding the plaintiff was reasonably likely to prevail on DTSA and Massachusetts trade secret claims because it demonstrated likely misappropriation of sufficiently identified customer and pricing information through specific evidence that former employees had taken and used the information.
Double Eagle Alloys, Inc. v. Hooper, 134 F.4th 1078 (2025) — The Tenth Circuit affirmed summary judgment against the plaintiff because it identified trade secrets by category (PSQ specifications, pricing, customer drawings) without distinguishing which specific portions of those categories were protectable trade secrets, leaving the court to hunt through thousands of pages for qualifying information.	IME Watchdog, Inc. v. Gelardi, 732 F.Supp.3d 224 (2024) — The Eastern District of New York granted a second preliminary injunction that was narrowly tailored to enjoin defendants from providing services to specific customers whom the plaintiff established were misappropriated from it, illustrating that where trade secrets (customer lists) are identified with sufficient specificity, a narrowly drawn injunction is appropriate.
Sysco Machinery Corporation v. DCS USA Corporation, 143 F.4th 222 (2025) — The Fourth Circuit affirmed dismissal of a DTSA claim at the pleading stage where three separately offered trade secret definitions collectively suggested the plaintiff's entire business was a trade secret—a description so sweeping and conclusory that it precluded the defendant from preparing a defense or the court from evaluating the statutory elements.	La Potencia, LLC v. Chandler, 733 F.Supp.3d 1238 (2024) — The Southern District of Florida granted a preliminary injunction to baseball bat manufacturers after finding they owned valid trade secrets in a specific bat-making formula and manufacturing process—a sufficiently particularized combination of ingredients—and that competitors had misappropriated those secrets, failing to establish the reverse engineering defense.
CAE Integrated, L.L.C. v. Moov Technologies, Incorporated, 44 F.4th 257 (2022) — The Fifth Circuit affirmed denial of a preliminary injunction because the plaintiff could not show that any alleged trade secrets (customer lists and transactional documents) had been accessed by or were still available to the defendant, and therefore could not establish misappropriation or threatened future use—a holding that the DTSA also bars injunctions based solely on what a person "knows" rather than evidence of threatened misappropriation.	Prysmian Cables & Systems USA, LLC v. Szymanski, 573 F.Supp.3d 1021 (2021) — The District of South Carolina granted a preliminary injunction under the DTSA and state law after the plaintiff identified specific trade secrets possessed by a former employee who had joined a competitor, concluding that the public interest favored enforcing trade secret laws and preventing unfair competition.
	Bambu Franchising, LLC v. Nguyen, 537 F.Supp.3d 1066 (2021) — The Northern District of California granted a preliminary injunction on the basis of the

	plaintiff's sufficiently identified trade secrets in its recipes alone, deferring consideration of whether the plaintiff's other alleged trade secrets were identified with sufficient particularity—illustrating that a plaintiff need only establish a likelihood of success for at least one specifically identified trade secret to obtain preliminary relief.
	<i>Pliteq, Inc. v. Mostafa</i>, 775 F.Supp.3d 1231 (2025) — The Southern District of Florida found sufficient identification of the alleged trade secrets and likelihood of success on the merits, but denied the preliminary injunction because the plaintiff failed to demonstrate irreparable harm absent injunctive relief, illustrating that identification alone is necessary but not sufficient.

Appendix B

STRUCTURE FOR AN ORDER REQUIRING IDENTIFICATION AND SEQUENCING DISCOVERY

To operationalize these principles in a manner that protects both parties and facilitates efficient adjudication, the Court may enter an order along the following lines:

1. **Trade Secret Identification Statement.** 1.1 By [date to be determined], Plaintiff shall serve a Trade Secret Identification Statement (TSIS) that identifies each alleged trade secret with reasonable particularity. 1.2 The TSIS shall, for each alleged trade secret, include: (a) a concise narrative description distinguishing the secret from public domain information and general skills; (b) for documents, data, or code, identification by title, location, and version/date (e.g., file paths, repository/branch/commit, document control numbers); (c) for technical items, the specific components, parameters, and configurations claimed; (d) for compilations, the constituent elements and how their selection/arrangement yields secrecy; (e) the date range during which secrecy is claimed; (f) the specific reasonable measures taken to maintain secrecy; and (g) the nexus to the alleged misappropriation. 1.3 Plaintiff may designate the TSIS under the protective order at the highest level of confidentiality.
2. **Good-Cause Amendments.** 2.1 Plaintiff may seek leave to amend the TSIS upon a showing of good cause and diligence. Amendments shall not expand the scope absent good cause and shall not prejudice Defendant's ability to respond to preliminary relief.
3. **Discovery Sequencing and Scope.** 3.1 Until service of an adequate TSIS, merits discovery on the substance of the alleged trade secrets and on Defendant's technical or business materials is stayed, except for discovery necessary to test the sufficiency of the TSIS and jurisdictional issues. 3.2 Following the TSIS, initial discovery shall be limited to: (a) the existence, scope, and secrecy of the identified trade secrets; (b) the alleged acquisition, use, or disclosure of the identified trade secrets; and (c) Defendant's independent

development or prior possession defenses as to those specific trade secrets. 3.3 Discovery into Defendant's source code, CAD, R&D repositories, customer lists, or pricing shall be deferred until the TSIS is served and only as to materials bearing on the identified trade secrets.

4. **Preliminary Injunction Proceedings.** 4.1 Plaintiff's motion for preliminary injunctive relief shall be supported by the TSIS, and any proposed order shall track the TSIS and comply with Rule 65(d) by describing with reasonable detail the acts restrained or required. 4.2 If the TSIS lacks reasonable particularity, the Court may deny or limit preliminary relief without prejudice to renewal upon service of an adequate TSIS.
5. **Protective Measures.** 5.1 The parties shall confer on a protective order providing for source code and high-sensitivity material handling, including access controls, secure review environments, and prosecution bars as appropriate. 5.2 Nothing in this order precludes narrowly tailored expedited discovery on the identified trade secrets for purposes of the preliminary injunction schedule.
6. **Meet and Confer and Dispute Resolution.** 6.1 The parties shall meet and confer regarding the sufficiency of the TSIS within [14] days of service. Disputes shall be presented by joint letter of no more than [5] pages identifying specific deficiencies and proposed cures.

This structure ensures that the plaintiff articulates its claims with the needed precision, while preserving the plaintiff's ability to protect secrecy and obtain expedited, targeted discovery if warranted.