



3. Trade Secret

Trade Secrets

Element 1: Subject Matter

Metallurgical Indus. v. Fourtek

Basic Facts

Metallurgical Industries has improved the zinc recovery process for reclaiming carbide from scrap metals  
P hired Bielefeldt, D1, to design and build two zinc-recovery furnaces  
P improved process in four ways (listed p. 40)  
D1 formed new company, hired by D2 (Smith International) to build furnace, presumably incorporating P's improvements

Lower Court  
CA5 (1986)

Prong 1: Secret

Prong 2: Value of Secret

Element 2: Reasonable Precautions to Prevent Disclosure

Rockwell v. DEV

Basic Facts

Rockwell sells printing presses and replacement parts  
"piece part" drawings are used to manufacture parts that are very hard to reverse engineer.  
Two former employees leave to competitor, and are found with drawings in their possession.  
Key facts re: secrecy at bottom of p.50

Lower Court  
CA7 (1991)

How is this different from "Not Generally Known"/Secret in Element 1?

Reasons for this requirement:

How much effort should be enough? How many 'fencing costs'?

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Element 3: Misappropriation

Basic Doctrine

Improper Means OR  
Breach of Confidence

Explicit K  
Implied Duty

Improper Means

duPont v. Christopher

Basic Facts

Secret: Unpatented process for producing methanol.  
Process revealed by taking photos of plant under construction.  
Alleged misappropriation: Hiring someone to fly over plant.  
Subtopic

Held

What is the Test?  
What advice do you give your clients?