

Syllabus: Trade Secret

Law Fall 2020

General Information

Professor	James Beebe
Course	Section 26464 – 5232 Trade Secrets
Meeting Schedule	Wednesdays, 5:30 – 7:30
Location	TBA
Final Exam	December 16, 2020

Course Outline

This course studies the legal and policy issues surrounding trade secrets – secret information that gives a company a competitive advantage. It examines ways in which an organization can identify and protect trade secret rights, as well as methods for enforcing those rights focused predominantly on the trade secret misappropriation through an in-depth discussion of various provisions of the Defend Trade Secrets Act, the Uniform Trade Secret Act, the Economic Espionage Act, and relevant case law. The course also examines issues related to employment (training, policy, hiring, firing), non-disclosure agreements, and the relationship between trade secret law and unfair competition, and implied obligations concerning the use of confidential information.

Course Materials

I will provide a list of cases we will discuss and post copies on the Class Blackboard site. I will also recommend several films for your optional viewing. We may view and discuss scenes from the films to supplement the case discussion. A few films we may discuss include: Duplicity (2009), Flash of Genius (2008), Paycheck (2003), The Founder (2016), The Informant (2009); The Man in the White Suit (1951), The Social Network (2010); and The Spanish Prisoner (2003). We will also work a song or two in for good measure. I will also arrange for several guest speakers.

Office Hours

I will be available before class and at other times by appointment. Please contact me via email to arrange a time.

Course Expectations

A. Attendance

The Law Center has a minimum 80% attendance policy for students. It is your responsibility to ensure you attend the required number of classes. Any student who attends fewer than the minimum percentage of my classes will be referred to the Associate Dean for Student Affairs. This class meets 1 day per week. To meet the 80% attendance policy, you may have no more than 3 absences. I realize that many who take this class, including myself, are working professionals. Thus, I will not consider those who come in late absent. However, much of the learning that occurs is due to the active exchange of ideas and information that will occur in the classroom.

So, please make every effort to be on time.

Students may attend class remotely via the Zoom internet video conferencing software 3 times during the semester. I will mark you as "Remote" on the roll sheet for these days. Remote days will not count as an absence.

To do this, there are several requirements: (i) your computer must have a working video camera and quality audio capability, joining by audio-only will be treated as an absence (you may need an external mic or headset for sufficient audio quality); (ii) you must identify yourself with your class roll name in the Zoom videoconferencing software; (iii) you must present your face and upper body area professionally in the video stream; (iv) you must be able to fulfill your responsibilities if called on to discuss a case or course materials; and (v) you must manage the mute "button" when remote to keep a professional demeanor.

Lawyers increasingly work through internet video conferencing. No student is required to use this capability, but one reason to offer it is that it affords a chance to experience it before using it in a real job setting. The other reason I offer this is that it reduces absence-taking for reasons related to illness, life events, or travel difficulty in Houston. Please note, when remote, hearing students speak in the class room may not be optimal.

B. Preparation Policy

Please be punctual. They say that 90% of the job is just showing up. But, as with most, and especially in the practice of law, you never want to keep your client, boss, colleague, or judge waiting. While I will not penalize you for being tardy, please be professional and respect your classmates and my time by minimizing classroom disruptions by being on time.

Please be prepared. I expect that you will to participate when called upon. I believe that a lively and engaged discussion of the topic will lead to a better learning experience. You will not be graded or judged based on what you say, but failure to participate in classroom discussions when you are called upon may count against you in the final grading.

Please be respectful. During these discussions, I expect you to be respectful, civil to each other, incorporate constructive comments, and not dominate the discussion. This does not mean you cannot express your disagreement in a significant way, but you should do so using the sort of language you would use in court and in a way that displays respect for others. You should argue in class applying what I call the red face test. That is your argument would cause the judge's face to turn red, then you are not stating your case as persuasively as possible.

Please be engaged. There is no such thing as a stupid question in law school. So, I encourage and expect questions and participation from any student at any time. We all have our own experiences and perspectives and if we listen carefully, we can all learn

from each other.

C. Use of Electronics

Recent studies on learning have demonstrated that we learn better when we are not distracted by electronics. More importantly, studies have shown that students who write their notes out on paper rather than type them on a computer learn more – showing stronger conceptual understanding and were more successful in applying and integrating the material than those who used took notes with their laptops. So, I recommend you take hand-written notes and then convert and regularly update an electronic outline.

If you choose to use your laptop, please limit the use to note taking or review of other course related materials. All other electronic devices should be turned-off or silenced during the class. Use of electronic devices in a manner that distracts from the classroom experience, including sending or receiving text messages or e-mail, playing games, or viewing obscene or offensive material is not allowed.

D. Seating

To help me learn your name, we will utilize a seating chart. You will have the opportunity to choose your seat for the rest of the semester during the first-class session when the seating chart will be distributed. It will take some time for me to learn all your names so it is important that you sit in the seat you have chosen on the seating chart.

E. Grading

Final Examination

Date: December 16, 2020, 6 p.m. – 8 p.m.

Format: A mixture of essay, short answer, and multiple-choice questions.

Component of grade: 100%

The final exam is open materials. This means any non-electronic and non-interactive materials prepared by you or others, including traditional study guides available for purchase and outlines from other students. Further details concerning the examination and any other grade evaluation mechanisms will be provided as the semester progresses.

F. Other Items

Americans With Disabilities Act

Whenever possible, and in accordance with 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, the University of Houston will attempt to provide reasonable academic accommodations to students who request and require them.

Please contact student services for more information.

Counseling and Psychological Services (CAPS)

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling [713-743-5454](tel:7137435454) during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Discrimination and Sexual Misconduct

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system’s Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:

<http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d7.pdf> (antidiscrimination)

<http://www.uhsystem.edu/compliance-ethics/docs/sam/01/1d8.pdf> (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

F. Reading Assignments (Subject to revision)

Date	Assignment
August 26	Topic 1: Introduction
September 2	Topic 2: What can be a trade secret?
September 9	Topic 3: Public Availability and Secrecy
September 16	Topic 4: The Economic Value Requirement
September 23	Topic 5: Reasonable Efforts to Maintain Secrecy
September 30	Topic 6: Misappropriation: Improper Means Guest Lecturer – TBA
October 7	Topic 7: Misappropriation: Duty of Confidentiality
October 14	Topic 8: Management of Trade Secrets Guest Lecturer: TBA
October 21	Topic 9: Protecting Trade Secrets in the Employment Context Guest Lecturer: TBA
October 28	Topic 10: Litigation Tactics and Defenses Tentative Guest Lecturer: TBA
November 4	Topic 11: Remedies for Trade Secret Misappropriation
November 11	Topic 12: Damages Guest Lecturer – TBA
November 18	Topic 13: Criminal Consequences for Trade Secret Misappropriation Guest Lecturer: TBA.
December 2	Review
December 3-4	Reading Days
December 16	Final Exam