

Identifying Information

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Paper Information

Title:	Trade Secrecy Injunctions and eBay's Influence
Abstract:	<p>The Supreme Court's eBay v. MercExchange decision upended the world of patent remedies. Before this 2006 opinion, a successful patent plaintiff could count on receiving injunctive relief, more or less as a matter of course. In eBay, the Court rejected this automatic injunction rule. Instead, federal courts must consider four "well-established" factors and cannot presume that a patent plaintiff has demonstrated irreparable harm simply by winning her infringement case. A number of empirical studies suggest that eBay has made it harder for patent plaintiffs to obtain injunctive relief. Over the past decade, federal courts have applied eBay's more critical analysis to copyright injunctions, and more recently, to trademark injunctions. In this Article, I consider how eBay has impacted federal courts' assessment of trade secrecy injunctions and whether certain unique features of trade secret cases (e.g., disclosure risks) counsel in favor of irreparable harm presumptions.</p>