

Cite as: 4 Tech. L. Rev., Oct. 2007, at 1.

Quantitative Analysis of the ROC Court Decisions on Trade Secret Infringements and Violation of Non-Compete Clauses

Oliver Hung, Wei-Li Liu, Nicole Huang

Abstract

The ROC Trade Secret Act has come into force for 10 years. However, whether it has sufficiently protected the trade secrets remains unanswered. In addition, the current operation and practice of “Non-Compete Clauses after Employment Relationship” are also important issues while discussing the trade secrets issues.

Through the database of the ROC Judicial Yuan, we reviewed all the cases in the ROC district courts in connection with infringements on trade secrets and breach of non-compete clauses from August 1, 1999 to June 30, 2006 and conducted quantitative analysis of the courts’ opinions in this regard.

The results of our quantitative analysis show that: 1. most of the decisions related to trade secret infringements and breach of non-compete clauses are in favor of defendants; 2. it is easier to claim violation of the non-compete clauses than infringements on trade secrets; 3. the trial period is too long to protect the plaintiffs given that the time is of essence; 4. it is quite probable that plaintiffs will lose the lawsuits if no penalty clause for breach of non-compete obligations is provided in advance; and 5. the five rules to non-compete clauses are not strictly followed by

district courts. Through the above findings, we look forward to finding better solutions to protect the trade secrets.

Keywords: trade secret, non-compete, quantitative legal analysis