

# Protecting Valuable Trade Secrets & Intellectual Property

By definition, a trade secret is any information that has actual, or potential economic value and advantage over a competitor. For a trade secret to be considered a trade secret, the owner of the trade secret must take (or have taken) reasonable steps to safeguard the secrecy or confidentiality of the information (or other thing) that the owner wants to claim as a trade secret. If a trade secret is not kept secret, the legal protections afforded to them will be lost.

*“What constitutes a trade secret and what constitutes confidential information can vary between organizations. All trade secrets are confidential information, but not all confidential information is a trade secret.”*

*- Stout, Trends in Trade Secret Litigation Report 2017*

Trade secrets are rapidly becoming the intellectual property of choice, due to their advantages in the information economy. Machinery and mechanisms were the brainchildren of the Industrial Age, and patent law was designed to protect them. In the Information Age, trade secret protection is better suited to the fast-moving and unpatentable confidential information we need to run our companies. But companies have not yet developed an effective system for realizing the full value of trade secret rights

**There is now federal jurisdiction for trade secret theft.** The Defend Trade Secrets Act of 2016 was signed into law on May 11, 2016 after being unanimously passed in the Senate and ratified in the House by a vote of 410-2. The DTSA became immediately effective for all misappropriation occurring after the bill's enactment.

Trade secrets require identification and protection. The starting point of any solution must therefore be an ongoing accounting system for trade secrets. A company must first know *what they are* and *where they are located*. Without this, establishing a trade secret is difficult.

Data Security by ConnectWise, has developed a mature program to assist our clients with discovering, managing and protecting their trade secrets. Leveraging the Trade Secret Office, Inc. and their Trade Secret Examiner software, our clients can discover their trade secret assets, collect this metadata, maintain its history, and provide security analysis. This in turn enables our clients to confidently and successfully litigate based on the criteria established by the Defend Trade Secrets Act of 2016 and make sure that security dollars are being spent on protecting the right information.

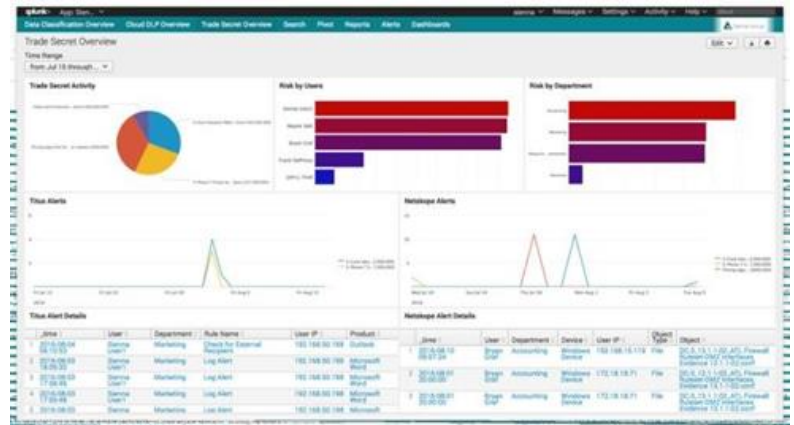


## How Is It Done?

The Trade Secret Examiner (TSE) is an information security and litigation support tool that significantly reduces the legal costs and risk commonly associated with trade secret litigation. The TSE system creates a “card catalog” of information about the company’s trade secrets. TSE validates the existence of trade secrets and permits inventory, analysis, and tracking of trade secrets within the company over time.

The database must not contain the trade secret information, only information about the trade secrets, called metadata. The database must retain all data entered and all changes to that data. It must also be possible to view all the entered data about any trade secret as of any date in the past. TSE enables all of this.

This identification and protection of trade secrets is an on-going and continuous process. An effective program requires the continuous classification of new trade secrets and the de-classification of stale trade secrets that no longer have economic value.



## Benefits of the ConnectWise’s Trade Secret Protection Approach

- ✓ Discover and Classify Trade Secret Assets
- ✓ Comprehensive understanding of the value of trade secret assets
- ✓ Awareness and alignment of HR, IT, and Legal departments to the Defend Trade Secrets Act of 2016
- ✓ Complete visibility of trade secret inventory and risk posture
- ✓ Protection against misappropriation of trade secret assets
- ✓ Provide evidence and analytics to support successful litigation
- ✓ Creation of Custom Dashboards (high level to granular)

## Conclusion

The time has come to develop an effective accounting system for intangible trade secret assets. The identification and protection of trade secret assets can no longer be ignored until a trade secret misappropriation lawsuit is filed. Officers and directors have a fiduciary duty to identify these assets in the new economy. Only then can these assets be effectively insured, valued, licensed and protected. And only then will companies realize the full potential of the information economy and correct the current troubled state of trade secret protection.

ConnectWise and Trade Secret Office can assist your organization in identifying and protecting your trade secret assets. Please visit our website [Data Security Services by ConnectWise](#) to find out more about our solutions.