

Trade Secret Protection In China & US

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■ Trade Secret Law Development

Civil cause of Action

China

I. Dec. 1, 1993 Anti-unfair Competition Law

- Amendment in 2017 & 2019

- Judicial Interpretation over Civil Cases Involving Infringements upon Trade Secrets, Sep. 12, 2020

US

I. Uniform Trade Secret Act, 1970

- Amendment in 1985

II. Defend Trade Secret Act, May, 2016

■ Trade Secret Law Development

Criminal cause of action

China

III. Criminal Law, 1979

- Amendment in 1997
- Amendment in 2020

IV. Sep. 14, 2020 Judicial Interpretation over Criminal Cases Involving Intellectual Property

US

III. Economic Espionage Act, 1996

■ Trade Secret Law Development

Civil Case-China

- **Burden of Proof**(Preliminary evidence)
- Evidence Preservation Action
 - defendant/third party
 - local police bureau/prosecution/court
- Attorney's investigation order
- Protection from publicity
- **Preliminary Injunctions**(irreparable damages)

Civil Case-US

- Discovery
- Temporary Restraining Order(34%, 58%)
- Ex Parte Seizure(2%, 20%)
- Protection from publicity
- Whistle Blower Immunity Provision
- Preliminary Injunctions(45%, 58%)

Trend: more civil cases in China?

■ Trade Secret Law Development

Criminal Case-China

- **Entry level**
- Trade secret points determination
- Proof of secrecy and consistency
- Relationship with civil case

Criminal Charge-US

■ Trade Secret Law Development

Concerns:

- Disproportionately Charge (aggressive vs. conservative)
- Information flow
- Labor mobility
- Knowledge generally known vs. not easily ascertainable

Where we are going:

- Strong Trade secret Protection
- Public interests and society welfare
- Development of Science & Technology



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