

Schroeder Details How the FTC Ban on Non-Competes Impact Trade Secret Protection in *IPWatchdog* Column

In the News
02.17.2023

Stinson LLP Partner [John Schroeder](#) authored a column for *IPWatchdog*, "Proposed FTC Ban on Non-Competes: Considerations for Companies to Protect Trade Secrets," which reviews what businesses need to consider to protect their intellectual property. According to the Federal Trade Commission (FTC), non-compete clauses unfairly and unnecessarily stifle employees' ability to pursue better employment opportunities. Schroeder notes that while this criticism may be true in the case of lower-wage workers, non-compete clauses often play a role in the protection of trade secrets; so this proposed rule is causing consternation in the intellectual property community.

"Whereas non-compete clauses can preclude a former employee's opportunity to disseminate confidential or proprietary information, trade secret enforcement through civil litigation often only provides after-the-fact consequences once harm has already been done," Schroeder writes. "The value of trade secrets is in their secrecy, and once that secrecy is lost, it cannot be recovered."

Schroeder continues, emphasizing the importance of considering alternative strategies regardless of the rule's passing. "The FTC's proposed ban on non-compete clauses would certainly weaken employers' ability to protect their trade secrets when their employees seek to switch employment," he writes. "Employers should narrowly tailor their use of non-compete clauses, adopt the use of non-disclosure and non-solicitation agreements, and consider the incorporation of additional policies to limit the access to trade secrets and retain the high-quality employees who have access to them."

Schroeder leverages his background in chemical engineering to seek custom solutions for his clients' high-stakes technology and intellectual property disputes. As a skilled patent, trademark and trade secrets litigator, he is especially proficient in litigating the validity of patents in *inter parte* review and post-grant

Schroeder Details How the FTC Ban on Non-Competes Impact Trade Secret Protection in *IPWatchdog* Column

review proceedings before the Patent Trial and Appeal Board of the U.S. Patent and Trademark Office. He also assists clients in matters involving patent counseling, patentability and non-infringement opinions, due diligence and licensing.

Trade secrets can be a company's most valuable intellectual property right. Stinson attorneys help clients create and execute individualized trade secret protection programs that identify company trade secrets, protect these trade secrets, and place the company in a strong position to reduce unauthorized use and disclosure. Additionally, Stinson's trade secret litigation attorneys frequently work with the firm's nationally-ranked team of employment litigators handling noncompetition and trade secret cases.

[Read](#) the full column.

CONTACT

John R. Schroeder

RELATED CAPABILITIES

Employment Litigation

Intellectual Property & Technology

Labor, Employment & Benefits

Patent Litigation

Post-Grant Proceedings

Private Business

Trade Secret Litigation

Trademark, Trade Dress, False Advertising & Unfair Competition Litigation

STINSON

STINSON LLP \ STINSON.COM