

The Where, When and What of DTSA Appeals: Part 1

JUNE 22, 2018

This article by Gregory Lantier and Thomas Sprankling, published by *Law360*, discusses the limited appellate case law, as well as where and when the appellate decisions may be issued.

Excerpt: Federal trade secret litigation can be as costly and complex as patent litigation. Unlike patent litigation, however, there has been virtually no appellate guidance on the meaning and scope of the Defend Trade Secrets Act in the two years since it was enacted. To date, just four US Courts of Appeals panels have even briefly addressed the law.

This absence of appellate case law is perhaps unsurprising, given how recently the DTSA was enacted. But given the millions of dollars—and ownership of prized innovations—at stake in trade secret proceedings, practitioners would be well-advised to be thinking to the future about where in the country such appeals will occur, when appellate decisions will be issued, and what issues appellate courts will focus on. This pair of articles will consider those questions. The first part discusses the limited appellate case law, as well as where and when the appellate decisions may be issued. The second part will dive into the “what” question, looking to the history of how other federal intellectual property statutes have been interpreted for guidance.

Authors



Gregory H. Lantier

PARTNER

Chair, Western District of Texas
Working Group

Co-Chair, Post-Grant
Proceedings Group

✉ gregory.lantier@wilmerhale.com

☎ +1 202 663 6327



Thomas Sprankling

PARTNER

✉ thomas.sprankling@wilmerhale.com

☎ +1 650 858 6062