

2015 National Legal Research Teach-In Kit

Research Instruction & Patron Services Special Interest Section
American Association of Law Libraries

Uniform Laws, 50-State Survey Exercise

Jason Sowards

Associate Director for Public Services and Lecturer in Law

Massey Law Library

Vanderbilt University

131 21st Avenue South

Nashville, Tennessee 37203

615.322.1438

jason.r.sowards@vanderbilt.edu

I created this problem for my advanced statutory and regulatory research course (which is a 7-week, pass/fail specialized legal research course). This problem allows students to find all of the states that have adopted a specific uniform law by using ULA, but they then must go one step further to find a relevant 50-state survey on WestlawNext that contained a column that was responsive to the call of the question. What makes the question challenging, though, is that the 50-state survey in PDF is updated only once per year. However, KeyCite flags associated with each of the state statutes are more current. This resulted in correct answers not included in the PDF version of the survey.

Uniform Law & 50-State Survey Question

You must use Westlaw for this question.

There is currently a split of opinion among states as to whether trade secret misappropriation is a continuing wrong; is each misappropriation a separate cause of action, or is one misappropriation one ongoing wrong. This has an impact on when the statute of limitations for such claims has run.

- A. According to the ULA, what is the standard statute of limitations for trade secret misappropriation actions?

Uniform Trade Secrets Act, 1985 amendments: § 6 on statute of limitations: 3 years

- B. What is the ULA's stance as to which interpretation is correct? Is a trademark misappropriation a continuing wrong for purposes of statutes of limitations? Describe how you arrived at your answer.

COMMENT from § 6: This Act rejects a continuing wrong approach to the statute of limitations but delays the commencement of the limitation period until an aggrieved person discovers or reasonably should have discovered the existence of misappropriation. If objectively reasonable notice of misappropriation exists, three years is sufficient time to vindicate one's legal rights.

- C. Which states have deviated from uniform law by having longer statutes of limitations? Provide citations (no need for Bluebook) for those states' trade secret misappropriation statute of limitations.

Georgia: GA ST § 10-1-766

Illinois: IL ST CH 765 § 1065/7

Maine: ME ST T 10 § 1547

Missouri: MO ST 417.461

Nebraska: NE ST § 87-506

Ohio: OH ST § 1333.66

Vermont – 12 V.S.A. § 523

Wyoming: WY ST § 40-24-106

All of this was discoverable through finding a 50-state survey: Westlaw 50-state survey "Trademarks and Trade Secrets – Statutes (Current through December 2013)

- D. If you were to engage in case law research regarding whether the misappropriation of a trade secret is a continuing wrong, which jurisdictions appear to have the most amount of litigation on this subject? Explain how you arrived at your answer.

Running a search for *trade secret misappropriation as a continuing wrong* across all state and federal content reveals that California (and 9th Circuit (applying CA law, and CA district courts)) is the leader in litigation in this area.

- E. Does the jurisdiction you identified in the previous question hold that a continuing misappropriation constitutes a single claim, or multiple claims? Explain how you arrived at your answer.

The 50-state survey says that it's a single claim: CA CIVIL § 3426.6.