



OUR TEAM

The multidisciplinary, integrated Duane Morris Non-Compete and Trade Secrets Group draws on experience from a range of legal areas, including commercial litigation, employment law, intellectual property, cybersecurity and privacy law, and white-collar defense, to address the multifaceted issues involved with non-compete and trade secrets law. Our team understands how to navigate these challenges with a client's industry and location in mind, as non-compete, unfair competition, and trade secret disputes and regulations vary across different sectors and states.

OUR SERVICES

Restrictive Covenant Drafting and Review

Our team helps clients craft restrictive covenants, including non-competition, non-solicitation, and confidentiality and invention agreements, that are tailored to our clients' businesses and needs. We craft these agreements with an eye toward maximizing success in the face of evolving and varied state laws that may impact multistate businesses and personnel.

Exit Process Counseling

We counsel our clients on strategies and agreements relating to the separation/exit interview process for departing employees, independent contractors and consultants to best protect the clients' investment in their confidential information, trade secrets and goodwill.

Onboarding and Risk Mitigation Advice

Our team counsels clients on hiring, onboarding and retaining personnel from competitors, and helps clients evaluate and mitigate legal risks involved in that process.

Trade Secret Audits

We help clients identify, catalog and assess trade secrets and other knowledge assets through comprehensive audits. After assessing the client's portfolio of sensitive knowledge assets, technology use, existing agreements, and current policies and practices, Duane Morris offers practical strategies to further protect these critical assets and reduce vulnerabilities.

Due Diligence

We provide exhaustive due diligence services to help companies understand and evaluate intellectual property, proprietary business processes and trade secret issues involved in a proposed transaction. Our team assesses risks and helps ensure that the acquiring company has in place the most effective, permissible provisions for protecting confidential information and trade secrets, preventing unfair competition and retaining key employees.

Injunctions, Declaratory Judgments and Other Litigation

When a dispute cannot or should not be resolved without court intervention, Duane Morris' team aggressively prosecutes and defends claims for:

- ▶ Breach of non-competition, non-solicitation, non-interference and non-disclosure covenants;
- ▶ Breach of invention and holdover agreements;
- ▶ Misappropriation of trade secrets (including under common law, state trade secrets acts and the Defend Trade Secrets Act);
- ▶ Unfair competition;
- ▶ Employee raiding;
- ▶ Breach of fiduciary duty and duty of loyalty;
- ▶ Tortious interference with contractual and business relationships; and
- ▶ Violation of the Computer Fraud and Abuse Act and related claims.



Lex Machina named
Duane Morris a
TOP LAW FIRM for
trade secret cases.

REPRESENTATIVE MATTERS

- ▶ *Wawrzynski v. H.J. Heinz Co., et al.* (W.D. Pa. 2015). Obtained jury verdict on behalf of H.J. Heinz in case in which plaintiff claimed Heinz used his ideas in Heinz's Dip and Squeeze ketchup package.
- ▶ *Xerox Corp. v. Tranquill, et al.*, 3:15-cv-00380-MPS (D. Conn. 2015). Secured settlement that the client found favorable on behalf of Xerox in high-profile litigation matter against three former employees and the new competitor they founded.
- ▶ *NuVasive, Inc. v. Laura Lewis*, No. 1:12-cv-01156 (W.D. Tex. 2014). Obtained jury verdict in favor of employee of Globus Medical, Inc. in a lawsuit brought by a competing medical device company against its former employee alleging violations of a non-competition agreement, misappropriation of trade secrets, breach of fiduciary duty and claims under the Texas Civil Theft Liability Act. Jury awarded plaintiff less than 4 percent of amount demanded at trial.
- ▶ [Parties omitted at client request.] (Superior Court of N.J. 2014) Won a temporary injunction and preliminary injunction on behalf of a healthcare services company against a former employee and her new employer, enforcing a non-compete agreement; obtained court order requiring employee to resign from new employment.

- ▶ *K2M, Inc. v. Milne*, Case No. CL00084627-00 (Loudoun County Circuit Ct. Va. 2014). Obtained a temporary restraining order and preliminary injunction on behalf of a medical device and biologics company against its former product manager who went to work for a competitor.
- ▶ *Capsicum Group, LLC v. Rosenthal*, No. 13cv5322 (E.D. Pa. Nov. 13, 2013). Secured injunction on behalf of computer forensic company Capsicum Group, LLC against two of its former employees prohibiting them from misappropriating any confidential trade secret information belonging to their former employer and from violating the restrictive covenants in their employment agreements.
- ▶ *De Lage Landen Financial Services, Inc. v. Thomasian*, No. 13-852 (E.D. Pa. May 1, 2013). Defeated three motions for temporary restraining orders and motion for preliminary injunction filed against our client, a former sales representative for a vendor-finance company, seeking to enjoin him from misappropriating trade secrets and competing in violation of a non-competition agreement.
- ▶ *The Valspar Corporation v. Van Kuren*, 2012 U.S. Dist. LEXIS 111862 (W.D. Pa. Aug. 9, 2012). Obtained on behalf of The Valspar Corporation an injunction prohibiting the former technical manager of its Beverage Ends packaging coatings group from working for a competitor, despite the fact that there was no non-competition agreement or other post-employment restrictive covenant prohibiting him from working for a direct competitor, on the grounds that there was a substantial likelihood that he would disclose trade secrets if permitted to work for the competitor.
- ▶ *Tekmira Pharmaceuticals Corp., et al. v. Alnylam Pharmaceuticals, Inc.*, No. 11-1010-BLS2 (Mass. Sup. Ct. 2011). Obtained a \$65 million-plus settlement on behalf of Tekmira Pharmaceuticals Corp. Tekmira had sued Alnylam Pharmaceuticals Inc. and AlCana Technologies, Inc. in the Business Litigation Session of the Massachusetts Superior Court alleging that Alnylam and AlCana had violated M.G.L. c. 93A and misappropriated Tekmira's trade secrets related to gene-silencing therapeutics.
- ▶ *Costa v. Datapro, Inc.*, 2011 WL 7318760, 2011 U.S. Dist. LEXIS 153266 (S.D. Fla. 2011). Successful defense of international banking software company in breach of contract action brought by Brazilian foreign national; obtained final judgment against foreign national plaintiff in excess of \$1.5 million on counterclaims that the Brazilian foreign national misappropriated client's trade secrets and federally registered trade dress and trademark, requiring international application of the Lanham Act.
- ▶ *Sleepy's LLC v. Escalate, Inc.* (2010). Secured settlement that the client found favorable for national retailer Sleepy's in arbitration concerning alleged copyright infringement and misappropriation of trade secrets related to retail and supply chain management software.
- ▶ *deCode v. Hakonarson, et al.* (E.D. Pa. 2007). Obtained settlement that the client found favorable on behalf of The Children's Hospital of Philadelphia and four scientists in trade secret/non-compete case.
- ▶ *GeneLink, Inc. v. LAB21, Inc.* (D. N.J. 2003). Successfully obtained a TRO and a preliminary injunction in a theft of trade secrets and breach of contract matter, barring the defendant from misappropriating our client's genetic profiling technology.
- ▶ *IKON Office Solutions, Inc. v. Dale*, 2001 U.S. App. LEXIS 22855 (8th Cir. 2001). Obtained order affirming preliminary injunction issued by trial court enjoining former employees and the competitive business they started from competing in violation of sale-of-business covenant not to compete.

- ▶ *U.S. Office Products v. Allied Office Supplies Inc., et al.* (D. Del. 2001). Obtained preliminary injunction and \$5.8 million settlement in corporate raid case involving theft of trade secrets on behalf of \$1 billion office products company.
- ▶ *ValuePart v. ITR*. Represented CEO accused of taking trade secrets to start a competing business. Successfully defeated TRO petition and motion for preliminary injunction, resulting in settlement the client found favorable.
- ▶ *CertainTeed v. CTA Acoustics*. Represented plaintiff in trade secret and business tort litigation. Achieved a settlement that our client found favorable.

OFFICE LOCATIONS & REACH



UNITED STATES

Atlanta	Los Angeles
Austin	Miami
Baltimore	New York
Boca Raton	Newark
Boston	Philadelphia
Cherry Hill	Pittsburgh
Chicago	San Diego
Dallas	San Francisco
Fort Worth	Silicon Valley
Houston	Washington, D.C.
Lake Tahoe	Wilmington
Las Vegas	

INTERNATIONAL

Hanoi	Myanmar
Ho Chi Minh City	Shanghai
London	Singapore

- > Also satellite offices, including Bangor and Portland, Maine; and Seattle, Washington
- > Alliances in Mexico
- > Leadership position with international network of independent law firms

FOR MORE INFORMATION, PLEASE CONTACT:

LAWRENCE H. POCKERS 215.979.1153 lhpoickers@duanemorris.com	SHANNON HAMPTON SUTHERLAND 215.979.1104 shsutherland@duanemorris.com
--	---

Or any of the other attorneys in the
Non-Compete & Trade Secrets Group.

Duane Morris LLP | 30 South 17th Street | Philadelphia, PA 19103

This publication is for general information and does not include full legal analysis of the matters presented. It should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. The invitation to contact the attorneys in our firm is not a solicitation to provide professional services and should not be construed as a statement as to any availability to perform legal services in any jurisdiction in which such attorney is not permitted to practice.