MASSACHUSETTS HIGH COURT REJECTS IRREPARABLE HARM PRESUMPTION FOR TRADE SECRETS INJUNCTIONS

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US Litigation and Dispute Resolution Alert

By: Chris Centurelli, Michael R. Creta, Erin E. Hahn

On 14 October 2026, the Massachusetts Supreme Judicial Court (SJC) held that a plaintiff seeking a preliminary injunction in a trade secrets case is not entitled to a presumption of irreparable harm merely because it is likely to succeed on the merits. In rejecting such a presumption, the SJC ruled in *Daikin Applied Americas Inc. v. Russo*[1] that ordinary equitable principles should apply to trade secrets injunction requests, including a showing of irreparable harm.

THE *DAIKIN* DECISION

A preliminary injunction is a form of equitable relief that provides temporary protection against harm while litigation is pending. Like many other jurisdictions, a party seeking preliminary relief from a Massachusetts court must demonstrate (1) that it is likely to succeed on the merits of its claim, (2) that it will suffer irreparable harm in the absence of the requested relief, and (3) in light of its likelihood of success, the risk of irreparable harm to the moving party outweighs the potential harm to the nonmoving party in granting the injunction.[2] Harm is considered irreparable if it cannot be remedied through a final judgment and, generally speaking, economic harm can be remedied through a final, monetary judgment.[3] The question in *Daikin* was whether establishing the likelihood of success factor for a trade secrets claim establishes a presumption of irreparable harm. The SJC held that it does not.

Plaintiff Daikin Applied Americas, Inc. (Daikin), a provider of heating, ventilation, and air conditioning (HVAC) systems, alleged that two former employees, together with their newly formed competing HVAC company, misappropriated Daikin's confidential and trade secret information.[4] While the defendants denied that most of the at-issue information was confidential, they nonetheless agreed to not use and return the information to Daikin.[5] Despite this agreement, Daikin proceeded with seeking a preliminary injunction to enjoin the defendants from soliciting certain Daikin customers for one year.[6] In seeking this relief, Daikin contended that, assuming it could show a likelihood of success on its misappropriation of trade secrets claim, it was entitled to a presumption of irreparable harm.[7] The trial court denied the injunction request because it was unpersuaded that Daikin had established a likelihood of success and, even if it had, that there should be a presumption of irreparable harm.[8] Daikin appealed the preliminary injunction denial, and the matter was transferred to the SJC on its own motion.[9]

In the appeal, the SJC rejected Daikin's argument that showing a likelihood of success on the merits of a trade secret claim establishes a presumption of irreparable harm.[10] Rather than endorsing the requested presumption,

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the court held that "ordinary equitable principles should apply."[11] According to the SJC, "when deciding a motion for a preliminary injunction in a trade secrets case, a judge should consider the specific allegations, the type of irreparable harm likely to arise, and the form of injunctive relief most likely to mitigate any such harm."[12]

THE SJC'S HOLDING IS CONSISTENT WITH A GROWING BODY OF FEDERAL CASELAW

The SJC's *Daikin* decision is in line with a growing body of federal caselaw rejecting the principle that irreparable harm may be presumed in an intellectual property dispute simply because a likelihood of success has been established.

In 2006, the US Supreme Court held that, in patent cases, courts must apply the traditional equitable test for injunctions rather than categorical rules favoring or disfavoring relief.[13] Likewise, the US Supreme Court has repeatedly rejected requests to replace traditional equitable considerations with a rule that an injunction automatically follows a determination of copyright infringement.[14] In affirming traditional equitable factors, the US Supreme Court has also emphasized that a "preliminary injunction is an extraordinary remedy never awarded as of right."[15]

Federal appellate courts have relied on the above-referenced US Supreme Court decisions to assess preliminary injunction requests in the trade secrets context. For example, in *Life Spine, Inc. v. Aegis Spine, Inc.*, the US Court of Appeals for the Seventh Circuit held that, in light of *eBay*, a district court erred by finding that "a presumption of irreparable harm attached upon a showing of likely success on a trade secret claim."[16] Similarly, in *First Western Capital Management Co. v. Malamed*, the US Court of Appeals for the Tenth Circuit held that there was no presumption available to establish irreparable harm based on the alleged violation of state and federal trade secret statutes.[17]

The US Court of Appeals for the Second Circuit has taken a more nuanced approach. In *Faiveley Transport Malmo AB v. Wabtec Corp.*, the circuit court held that a "rebuttable presumption of irreparable harm might be warranted in cases where there is a danger that, unless enjoined, a misappropriator of trade secrets will disseminate those secrets to a wider audience or otherwise irreparably impair the value of those secrets."[18] The Second Circuit, however, also held that a presumption of irreparable harm does not automatically arise merely because a trade secret has been misappropriated or used.[19]

TRADE SECRET OWNERS SHOULD AFFIRMATIVELY PROVE IRREPARABLE HARM

In trade secrets cases involving highly sensitive commercial information and business competitors, securing early injunctive relief is often critical. Therefore, given the growing trend in rejecting a presumption of irreparable harm in trade secrets disputes, trade secret owners should assume that establishing a likelihood of proving their claim will not be enough to obtain an injunction. Trade secret owners should carefully consider possible avenues for demonstrating irreparable harm, such as a loss of market position, a competitive advantage to the alleged misappropriator, or the loss of goodwill or customer relationships. The practical lesson from the SJC's Daikin

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decision is straightforward: build the injunction record around the suffered harm and the relief needed to prevent such harm—not just the alleged trade secret theft.

The firm's IP Litigation practice group has significant experience in cases involving the alleged misappropriation of trade secrets, intellectual property theft, and related breach-of-contract claims. For more information on our trade secrets practice, please visit our website.

FOOTNOTES

[1] 498 Mass. 419 (2026).

[2] *Id*. at 422.

[3] *Id*. at 423.

[4] *Id*. at 419–20.

[5] *Id.* at 419.

[6] *Id*. at 419, 421.

[7] *Id*. at 420.

[8] *Id*. at 421–22.

[9] *Id*. at 422.

[10] *Id*. at 425–26.

[11] *Id*.

[12] *Id*. at 426.

[13] eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391–94 (2006).

[14] *E.g.*, N.Y. Times Co. v. Tasini, 533 U.S. 483, 505 (2001).

[15] *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

[16] 8 F.4th 531, 545 (7th Cir. 2021).

[17] 874 F.3d 1136, 1142–43 (10th Cir. 2017).

[18] 559 F.3d 110, 118–19 (2d Cir. 2009).

[19] *Id*.

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KEY CONTACTS



CHRIS CENTURELLI
PARTNER

BOSTON
+1.617.261.3276
CHRIS.CENTURELLI@KLGATES.COM



MICHAEL R. CRETA
PARTNER

BOSTON
+1.617.951.9101
MICHAEL.CRETA@KLGATES.COM

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