

## Mark A. Romeo

Shareholder

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## Focus Areas

Unfair Competition and Trade Secrets  
Litigation and Trials  
Investigations  
Whistleblowing, Compliance and Investigations

## Overview

Mark A. Romeo has an extensive background and over 20 years of experience in trade secret and unfair competition litigation. Mark's practice is international in nature and includes trials in Pennsylvania (E.D. Pennsylvania) and Nevada as well as the state and federal courts throughout California. Mark also consults with clients regarding issues involving key employees who may be working abroad and regularly works with lawyers in offices in Western Europe, Korea and China in addressing issues that arise with employees who may have misappropriated intellectual property while working abroad.

Mark's practice has focused on virtually all aspects of the Uniform Trade Secrets Act and the Defend Trade Secrets Act. Mark has lectured on the types of available remedies under the state and federal trade secret and unfair competition laws. He has a deep understanding and skill set in the California Computer Crimes statute (Penal Code Section 502(c)) as well as the Computer Fraud and Abuse Act (nationally).

Mark has deep knowledge of computer forensics, including the use of cloud-based storage (e.g., Slack and Dropbox) and experience working with clients to determine whether they've been the subject of trade secret theft. Mark regularly advises clients on issues including the viability of restrictive covenants, which includes the developing law in California regarding the unenforceability of employee nonsolicit covenants. In addition, Mark has worked with clients in drafting proprietary information agreements and restrictive covenant agreements, usually as part of M&A transactions.

A sample of some of his most recent cases include the following:

- Mark was a key member of the team representing a major California public university school system against one of California's largest private universities in a case filed in 2015. This was a landmark case in the area of university-sponsored medical research. Mark helped secure an early Temporary Restraining Order (TRO) and then Preliminary Injunction against the private university, after that university allegedly conspired with a then principal investigator working for the public university in an effort to raid the public university of an Alzheimer's study that received both federal and private grants. Mark also helped lead a team of forensic investigators and lawyers to uncover the theft. The case involved cloud-based storage and acts to seize control over the public university's owned computer system to ensure that various federal and private grants would come to the private university to the detriment of the public university. The case recently settled, with the private university apologizing to the public university for the way in which the principal investigator and his team left the public university and how the private university participated in that institutional move.
- In 2018, Mark helped a California-based healthcare company uncover a plan whereby a Northern California-based executive had been working to set up a competing business during the time he was being paid by the healthcare company. The executive was beginning to solicit customers, recruit and pay employees of the healthcare company. The federal court in Northern California granted Mark's client's request for a TRO, and after completing expedited discovery, the healthcare company was able to secure a preliminary injunction and ultimately a settlement. Mark led an outside computer forensics firm to uncover the theft when the client believed that the executive had merely resigned and had done nothing wrong.
- In 2015 and through late 2017, Mark helped a mid-size government contractor obtain a TRO and preliminary injunction in a theft of trade secrets case. Mark worked with a computer forensics firm to uncover the theft; the focus of the forensics was on the use of cloud-based storage.
- In 2017, Mark led a team to investigate theft of data and the establishment of competing business being formed by a departing executive and laid out a case for violations of the computer crimes statute in California, Penal Code Section 502(c). After a presentation and white paper written by Mark, the District Attorneys' office initiated charges leading to a guilty plea and restitution to be paid to the client.

In addition to trade secrets and unfair competition matters, Mark regularly counsels clients on matters involving drafting agreements related to stock awards, including stock options, stock appreciation rights, and restricted stock and the connection with restrictive covenants. He litigates such disputes and was successful at recovering funds on behalf of the former executive of a publicly traded company in a dispute concerning stock appreciation rights and wrongful termination. Mark helps clients with matters involving workplace investigations (where he is knowledgeable on matters

of protecting against the waiver of attorney-client privilege and work product), reductions in force, whistleblower/retaliation, and discrimination and harassment matters.

Mark has represented clients before such agencies as the U.S. Department of Justice, the U.S. Department of Labor and the California Department of Labor Standards Enforcement, among several other administrative agencies.

Mark began his career at Littler in the mid-1990s, before joining a large California law firm until it dissolved in 2003. Mark was a partner in two full-service, global law firms prior to rejoining Littler.

## Professional and Community Affiliations

- Member, Trade Secrets subsection, American Intellectual Property Law Association (AIPLA)

## Education

J.D., University of San Francisco School of Law, 1994

B.S., University of Southern California, 1988

## Bar Admissions

California

## Publications & Press

### **Ninth Circuit Indicates Restrictive Covenants in Collaborative Business-to-Business Agreements Can Escape Per Se Liability**

*Littler Insight*

September 2, 2021

### **Revisiting Restrictive Covenants in a Commercial Setting: The California Supreme Court Applies a Less Aggressive Approach**

*Littler Insight*

August 11, 2020

### **Littler Adds Shareholder Mark Romeo in Orange County**

*Littler Press Release*

May 14, 2019

## Speaking Engagements

### **Stop! Thief! Protecting Confidential Information and Trade Secrets in the New World of Work**

Littler Executive Employer Conference, Phoenix, AZ

May 11, 2023

### **What Companies Should Do When They Suspect Trade Secret Theft**

Irvine, CA

March 19, 2020

### **Tumultuous Times in Restrictive Covenant Law**

October 21, 2019