

Johnston in MLex: Trade Secret Experts Divided After U.S. Federal Circuit Erases Insulet Win

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A divided Federal Circuit decision overturning a \$59 million trade secret judgment won by U.S. medical device maker Insulet Corporation against South Korean rival EOFlow has sparked debate over when the Defend Trade Secrets Act's statute of limitations begins to run. Haynes Boone Partner [Lee Johnston](#) spoke with *MLex* about the ruling, emphasizing that companies should act quickly in trade secret cases.

Read an excerpt below:

Lee Johnston of Haynes Boone viewed the decision differently, saying the majority focused on the allegations Insulet ultimately pleaded in its complaint, and he was not surprised that the Federal Circuit overturned the verdict.

"If you really look at what the majority based its decision on, it was the complaint that was filed by Insulet, and they basically said, 'you could have pled this same stuff that you did in 2023, you could have done that in 2020 or earlier,'" Johnston said.

Based on that reasoning, the court reached "the right result," Johnston said, while acknowledging the tension between gathering enough information to file a complaint and complying with the statute of limitations.

"You're kind of caught between a rock and a hard place with the statute of limitations breathing down your neck, and the worry that you're going to get punted out of federal court immediately on a motion to dismiss, because you haven't adequately identified or specified your trade secrets," he said.

In general, companies should act quickly in trade secret cases, Johnston said.

"You can't start losing market share" to a company that has misappropriated a trade secret, he said. "That should be one of the great incentives to vindicating your rights and raising these issues sooner than later."

Read the full *MLex* article [here](#).