

## **IP Law Daily, TRADE SECRETS—5th Cir.: RICO complaint against alleged employee poacher reinstated on appeal, (Jun 10, 2026)**

By Kenneth H. Ryesky, M.B.A., J.D.

Cleaning product producer plausibly alleged a pattern of trade secret theft by the CEO of a competing company.

The U.S. Court of Appeals in New Orleans, Louisiana has reversed and remanded a RICO lawsuit brought by EnvTech, Inc. alleging a pattern of trade secret theft whereby USA DeBusk LLC regularly hired former employees of its competitors and stole their proprietary knowledge at the CEO's direction. EnvTech alleged this was a pattern of racketeering activity that violated the RICO statute. A federal district court in Texas found that the RICO pleadings were inadequate and dismissed the case. The circuit court reversed the dismissal, and remanded the case to the district court for further proceedings. The court noted that criminal theft can be a basis for a civil trade secret misappropriation claim, and that some of the vagueness in EnvTech's allegations could be based upon information particulars unknown to EnvTech, but likely to be expanded upon during discovery ([EnvTech, Inc. v. DeBusk](#), No. 25-40237 (5th Cir. Jun. 9, 2026)).

**Background.** Crude petroleum consists of different hydrocarbon compounds of differing molecular complexities. At the oil refinery, those hydrocarbon compounds undergo various chemical processes to produce the appropriate blends of petroleum fractions for diverse products. One such process is known as alkylation, which is necessary for producing the components of high-octane gasoline. One method of alkylation uses hydrofluoric acid as a chemical catalyst. Hydrofluoric acid alkylation (HF alky) units in the oil refinery require continuing maintenance and periodic cleaning, the latter requiring the shut-down of the refining process.

EnvTech, Inc. (EnvTech), a firm that services oil refineries, developed a one-step chemical formula and cleaning process for HF alky units. EnvTech treated its formula and process as a proprietary trade secret, entrusting it to selected employees who had a need to know it through written confidentiality and non-disclosure agreements. For two decades, EnvTech had the sole use of its formula and process. USA DeBusk, LLC (USAD), also chemically cleans HF alky units in oil refineries.

EnvTech sued USAD CEO Patrick Andrew DeBusk in federal district court, alleging that he, along with other USAD persons identified but not named as defendants in the lawsuit, conspired to steal and possess EnvTech's formula and process trade secrets in violation of the Racketeer Influenced and Corrupt Organizations Act (RICO). The lawsuit alleged that DeBusk induced two long-serving EnvTech employees who knew the trade secret to leave EnvTech to come into USAD's employ. The district court dismissed EnvTech's complaint and terminated the case. EnvTech appealed the dismissal to the Fifth Circuit.

**Trade secret theft.** The circuit court found that, contrary to the district court's finding, EnvTech had sufficiently pleaded that DeBusk had committed trade secret theft with the requisite mental intent. Trade secret theft is an enumerated RICO predicate offense. Here, the district court had accepted DeBusk's contentions that other lawsuits against USAD used by EnvTech to show trade secret theft either did not name DeBusk personally or relied upon the Texas trade secret misappropriation statute, which only requires reason to know that the trade secret was improperly acquired, instead of the federal trade secret theft statute, which requires intent. The circuit court found that EnvTech's allegations alleging that DeBusk had knowingly directed the two recruits from EnvTech to use their experiences to develop a business service line to clean HF alky units in refineries met the mental state of the federal trade secret theft statute.

**Pattern of racketeering.** The circuit court panel found that EnvTech had plausibly pleaded a pattern of at least two related predicate actions. Here, the district court had ruled that EnvTech's reliance upon civil trade secret lawsuits

against USAD in Texas state courts was insufficient. EnvTech had pleaded that DeBusk had personally hired the USAD employees named in such lawsuits. But the Texas statute does provide that criminal theft can be a basis for a civil trade secret misappropriation claim. Moreover, some of the vagueness in EnvTech's allegations could possibly be based upon information particulars unknown to EnvTech, but likely to be expanded upon during discovery. "Under the circumstances, to require more would be to require EnvTech to plead facts it cannot realistically know without discovery."

The Case is [No. 25-40237](#).

Judge: Douglas, D.

Attorneys: Robert M. Millimet (Richards Law, P.L.L.C.) for EnvTech, Inc., Jonathan S. Franklin (Norton Rose Fulbright US, L.L.P.) for Patrick Andrew DeBusk.

Companies: EnvTech, Inc.

Cases: TradeSecrets LouisianaNews MississippiNews TexasNews