

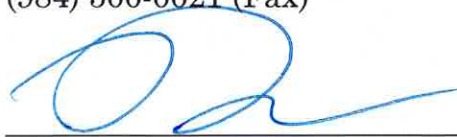
instead desired to convey a definition of proprietary like a trade secret. N.C. Gen. Stat. § 66-152 defines a trade secret as “business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique or process” that meets both of the following criteria: (a) “derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use” and (b) “is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Further, the statute provides that “[t]he existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.” N.C. Gen. Stat. § 66-152(3).

The proper reading of N.C. Gen. Stat. § 116-43.17 as propounded in plaintiff’s previous memorandum to the referee is that it excludes only “research data of a proprietary nature, research records of a proprietary nature, or research information of a proprietary nature.” Treating the word “proprietary” to be defined as a trade secret is an appropriate and straightforward reading that would advance the dual purposes of the legislature to have access to records as broad as possible while reading exclusions as narrow as possible. Accordingly, it is only records that are research data, research records, or research information that are business or technical information that derives independent or actual commercial value from not being generally known or readily ascertainable, and in which reasonable efforts

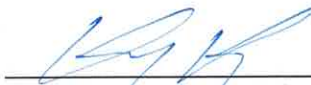
have been made to keep the records confidential. Otherwise, the records should be disclosed.

RESPECTFULLY SUBMITTED this 29th day of February, 2024.

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CERTIFICATE OF SERVICE

The undersigned certifies that he has cause a copy of the foregoing to be served upon defendant pursuant to Rule 5 of the Rules of Civil Procedure by emailing a copy of same to the email address of record for defendant's counsel as follows: Kimberly Potter, KPOTTER@ncdoj.gov; David Lambeth, dlambeth@email.unc.edu; and Marla Bowman, marla_bowman@unc.edu.

This the 29th day of February, 2024.



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