

No Presumption of Irreparable Harm: Massachusetts SJC Sets the Standard for Preliminary Injunctions in Trade Secret Cases

By **Timothy J. Fazio** | **Rachel E. Janis**

October 20, 2026

On October 14, 2026, the Massachusetts Supreme Judicial Court issued a slip opinion in *Daikin Applied Americas Inc. v. Russo, et al.* raising the threshold necessary for plaintiffs in trade secret cases to obtain injunctive relief. Rather than being entitled to a presumption of irreparable harm once likelihood of success is shown, a trade secret plaintiff must now show three elements to obtain injunctive relief: (1) the plaintiff's claims are likely to succeed on the merits; (2) the plaintiff will suffer irreparable harm absent injunctive relief; and (3) the risk of irreparable harm to plaintiff outweighs any potential harm to defendant if the injunctive relief is ordered.

In *Daikin*, the plaintiff alleged that two of its former employees sent confidential information to their personal email accounts and formed a competing company while still employed at Daikin. The company sued the former employees for trade secret misappropriation and violations of the Massachusetts Uniform Trade Secrets Act (MUTSA). Daikin also moved for a preliminary injunction to order defendants to stop using and return all confidential and proprietary information, submit their devices to a third party to be scanned for and cleared of confidential information, and refrain from soliciting Daikin's customers for one year. At the time the motion was argued, the defendants agreed to the first two requests, and Daikin requested relief regarding the third.

Daikin argued that because it was able to show a likelihood of success on the merits of its claims, it was entitled to a presumption that it would suffer irreparable harm without the requested injunctive relief. The trial court rejected this argument and, rather than allow for the Massachusetts Appeals Court to weigh in, the SJC took the appeal directly and affirmed the trial court's decision itself.

The SJC ultimately found that presuming irreparable harm in every case was inconsistent with common law principles of equity and MUTSA's authorization for courts to order injunctions "upon principles of equity," requiring courts to consider factors such as "prior party conduct and circumstances of potential use." Ultimately, the court affirmed the trial court's denial of Daikin's motion for preliminary injunction, as its supporting affidavit failed to demonstrate that it would suffer the immeasurable losses or losses of goodwill Daikin claimed would result from defendant's continued outreach to Daikin's customer base. The SJC's reasoning is in line with the United States Supreme Court's decision in *eBay Inc. v. MercExchange, LLC*, which declined to presume irreparable harm when considering an injunction in a patent and copyright infringement case due to traditions of equity, as well as decisions in the Seventh and Tenth Circuits. The United States Supreme Court has not, however, considered this issue in trade secret cases.

Notably, the SJC's opinion strays from the First Circuit, which has presumed irreparable harm at the preliminary injunction stage when a plaintiff shows likelihood of success on their trade secret claims. While in practice the First Circuit typically still evaluates whether the plaintiff sufficiently demonstrated irreparable harm, it is likely that the SJC issued its opinion in *Daikin* to foreclose the possibility of plaintiffs obtaining injunctive relief in a way that is contrary to Massachusetts' principles of equity.

The SJC's decision adds an additional hurdle to parties in trade secret cases seeking preliminary relief. To overcome this hurdle, plaintiffs should prepare supporting affidavits and documentary evidence to demonstrate the irreparable harm they will suffer absent injunctive relief. Plaintiffs may also elect to pursue their trade secret claims in

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Massachusetts federal court, which would potentially allow for them to avoid proving irreparable harm when seeking injunctive relief. Conversely, the SJC's opinion is advantageous for defendants, who may now look to remand their federal court trade secret cases to state court so that plaintiffs must prove irreparable harm in order to obtain injunctive relief.