

FTC's Non-Compete Ban Likely to Face SCOTUS Challenge, Say Lawyers

Wednesday, April 24, 2024

James Gale was quoted in a World IP Review article discussing the potential for the U.S. Supreme Court to overturn the Federal Trade Commission's (FTC) rule banning noncompetes. Issued on April 23, the rule aims to protect workers' freedom to change jobs; however, the ruling faces backlash as the U.S. Chambers of Commerce intends to sue the FTC, arguing its unlawful actions harm businesses' ability to remain competitive.

Jim described the rule as "absolutely horrible," arguing that the ban would encourage trade secret theft and stifle innovation if implemented. He commented, "I hate this rule. I understand that the FTC was trying to protect low-income workers. But many states have already enacted statutes that would protect them—and that's a good thing." Jim, however, offered modifications to existing restrictive covenant laws, "The rule will take away the best means of preventing the improper use or disclosure of trade secrets and confidential information. I believe that low level employees who are not exposed to a company's trade secrets or goodwill, should be exempt from noncompetes."

The FTC's final rule will allow existing noncompetes for senior executives to remain intact, but prohibit employers from entering into any new noncompetes, which will also apply to senior executives. Additionally, with confidentiality agreements and NDAs potentially being considered noncompete agreements, it is predicted that companies will begin to rethink their restrictive covenants.

To read more, [click here](#). (subscription required)

Related Practice Areas

- Trade Secrets, Restrictive Covenants, and Computer Abuse