

## Antiquated Statutes Plague Former Goldman Sachs Employee’s Legal Battles

By Emmett Carrier, J.D. Candidate 2018 | February 20, 2017

A decade long legal battle took another strange turn last month when a New York state appellate court [overturned a trial judge’s decision](#) letting former Goldman Sachs employee, Sergey Aleynikov, walk free. The on-going investigation and legal dispute started in 2009 when Mr. Aleynikov stole proprietary source code from Goldman Sachs, and took the code to his new employer to establish a [high-frequency trading platform](#).

What initially might seem like a clear-cut example of trade secret theft has led to both state and federal courts disagreeing over the interpretation of outdated statutes. Initially found guilty in federal district court and sentenced to eight years in prison, Mr. Aleynikov served only one year of that sentence before an appellate court found that intangible computer data did not apply to the statutes allegedly violated.

In 2012, six months after his release, Mr. Aleynikov again faced charges, but this time stemming from state violations. After a jury convicted Mr. Aleynikov under a section of the New York Penal Law for “[Unlawful use of secret scientific material](#),” the trial judge determined that the act of stealing the source code did not result in anything “tangible” being removed, and thus, fell outside the statute. Now, however, the [state appeals court](#) ruled that Mr. Aleynikov created a “tangible reproduction” under the statute when he downloaded the code onto his personal computer. Mr. Aleynikov will likely appeal the reinstated conviction, and the New York Court of Appeals, New York’s highest court, will undertake the difficult role of interpreting whether computer data can be “tangible.”

This incredibly drawn-out legal dispute, which also includes actions by Mr. Aleynikov suing Goldman Sachs to indemnify his legal expenses, highlights the difficulty in interpreting decades-old criminal statutes in the digital age. The undisputed facts demonstrate that Mr. Aleynikov stole proprietary information from his employer for personal gain, but, due to the fact that the “property” stolen took the form of a computer code, Mr. Aleynikov has been able to elude jail-time because legislation often fails to classify digital information. In a rapidly changing world where a new business can be started with a laptop, the need to [update existing criminal statutes](#) to properly reflect the role of computers, and the information they contain, has never been more apparent.