

TRADE SECRET

When search results may not be protected by a patent or another intellectual property right

1/2



* Knowledge Transfer Office

WHAT IS TRADE SECRET?

A pretty broad concept that affects all researchers throughout their career because it can encompass all knowledge and information, of any type whatsoever, held by a natural or legal person.

Examples

- trade secret
- formulation
- recipe
- chemical compound

WHAT ARE THE CONDITIONS FOR PROTECTING TRADE SECRET?

The European legislator requires* :

- **"secret" character:** information is secretive when, in its entirety or in the exact configuration and assembly of its elements, it is not generally known to the persons forming part of the circles who normally deal with this kind of information or it is not easily accessible to them;
- **commercial value,** because of its secret nature;
- **measures taken by the person who has control of the information in order to keep the information secret.**

* [Directive \(EU\) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information \(trade secrets\) against their unlawful acquisition, use and disclosure](#) (not yet transposed into Belgian law at the time of writing this memo)

Your know-how is valuable!

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2/2

WHY RESORT TO TRADE SECRET?

To offer protection, without any specific registration or renewal formality with an administration and without time limit, to research results or expertise that have a potential for the institution but:

- cannot be protected by an intellectual property right
 - must be kept secret for strategic reasons
- In all instances, contact your KTO to define the most suitable protection strategy.

TO REFLECT ON

The Coca-Cola Strategy

the Coca-Cola formula is the most famous example of a trade secret. Now written and stored in a safe, it is – according to legend – only known to two people in the world, who are not allowed to travel together.

The Michelin strategy:

An example of the difficulty in finding a balance between protection by trade secret or by patent is the one of Michelin.

Until recently, the group filed very few patents, for fear of disclosing its technologies to competitors.

Until it became a victim of espionage...

This demonstrates that the policy of an institution regarding commercial secret can evolve over time.

[More info](#)

A FEW THOUGHTS

- via the procedure specific to your institution, establish with your KTO a strategy to ensure that the secret character can be maintained in the medium and long term,
- do not reveal confidential information which is secret in your personal circle or in a professional framework (meeting, conference, poster, publication...),
- establish a system of information security,
- lock physical access to offices and labs,
- secure IT access,
- etc.

[To find out more](#)

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