

CUBICIBUD



TRADE SECRETS

Ensuring your investment in R&D and new product developments are not exposed because of poor IP management

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WILL YOU TELL ME YOUR SECRETS?

All companies have secrets. Some are technical such as the detailed specification of a manufacturing process; some are business-related such as a list of customer names and addresses, which would be useful to a competitor. Some are of enormous value, e.g. the recipe for Coca Cola; others are less valuable. Some are simple, even one word long, such as the name of a company takeover target, others are complex, such as the details of a planned advertising campaign.

The common factor is that all can and should be protected.

Trade secrets are about protecting your secrets, keeping your products profitable, developing new products faster and better than your competition, and ultimately securing jobs.



Simple steps to protecting your IP

Trade secrets are an often overlooked form of intellectual assets owned by companies. In contrast to patents that are registered and disclosed to the public at large, trade secrets remain hidden. The advantage is that unlike the 20 term of patents, a strong trade secret may remain secret in perpetuity.

Many SMEs rely almost exclusively on trade secrets for the protection of their IP, particularly where their competitive advantage is derived from activities that cannot be patented or protected by other registered forms of IP.

While these conditions vary from country to country, some general standards exist which are referred to in Art. 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement):

- The information must be secret (i.e. it is not generally known among, or readily accessible to, circles that normally deal with the kind of information in question).
- It must have commercial value because it is a secret.
- It must have been subject to reasonable steps by the rightful holder of the information to keep it secret (e.g., through confidentiality agreements).

http://www.wipo.int/sme/en/ip_business/trade_secrets/protection.htm

To ensure trade secrets are used to best advantage, organisations should establish a robust and proactive approach to IP asset management and create an ambition to embedded best practice behaviours in the business.

Business should: audit, categorise, control and monitor.

Audit – identify what you own

Audit and develop an inventory of trade secrets and associated documentation.

But an IP audit alone is of no value; a passive list cannot add to the value of the business or protect competitive advantage.

Categorise – understand how you use it

Map trade secrets to appropriate business units, products, people and partners.

Understand what the trade secret relates to and when it is no longer needed. Like all IP trade secrets need to be actively maintained.

Control – manage the use and spot the misuse

Maintain copies of nondisclosure agreements and employment contracts of those with access to trade secrets.

Review IP agreements in employment contracts, and in particular restrictive covenants

Monitor – manage the risks

Report on people, companies and agreements pertaining to specific trade secrets. Allow access to be audited so that in the case of trade secrets being exposed a trace can be made to minimise damage.

Processes need to be embedded in behaviours

Simply labelling something as trade secret will not make it a trade secret. As an organisation you must affirmatively behave in a way that demonstrates your intent to keep your own information, supplier information and customer information secret.

Good management of IP, of all types, requires proactive steps in: Education, processes and people. A clear linkage between the IP you own, its use and the business value derived from it will inform internal and external stakeholders and demonstrate that you intend to build strong IP, protect it and enforce it.



Cubicub Limited is an independent technical consulting firm specialising in matters relating to Intellectual Property.

We believe good IP management allows business to protect its competitive advantage; to generate returns on R&D investment and to secure investment and finance. Modern businesses neglect their IP assets at their risk as poor IP management gives away value and reduces barriers to entry for competitors compromising the organisation's capabilities.

To manage IP well business must adopt a combination of commercial, legal and technical expertise – but always with a pragmatic focus to actively manage and exploit the IP.

Cubicub supports its clients by:

- providing confidential and independent technical services to evaluate IP assets
- performing IP audits, patent mining and landscaping exercises
- supporting commercial negotiation, licensing and litigations
- providing independent technical expert reports

We work with businesses ranging from smaller start-ups to mature multinationals; from early stage invention capture through to exploitation and monetisation of IP assets.

Cubicub provides expert IP support, patent evaluation, landscaping and expert witness in a range of technologies including telecommunications and consumer electronics, automotive, and semicon.

To discuss how Cubicub's expertise can help your organisation manage and exploit IP, please contact us now: info@cubicub.com

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