

Trade Secrets

OVERVIEW

What is Trade Secret Protection?

- Alternate source of protection to patent and trademark law.
- The subject matter of a trade secret is valuable because it is not generally disclosed to the public.
- Distinguish from trademarks and patents where the information is *available to the public*.

Criteria For Trade Secrets

- The information has independent economic value because it is not publicly available or known. (Note that if the information is readily ascertainable to others in industry, then it is not a trade secret).
- *The owner must take reasonable steps to keep the information secret.*

Advantages

- Indefinite future protection
- No requirements of “novelty” or “tangibility”
- Do not need to file an application for protection

Disadvantages

- Trade Secret law protections kick in only after a misappropriation or threatened misappropriation of the trade secret occurs.
- Distinguish from protection afforded by patent and trademark law.