

MODULE 1.6 TRADE SECRETS – LEARN THE BASICS



UNIVERSITY OF
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This presentation is adapted from the IP foundation series on the Canadian Intellectual Property Office (CIPO) website.



Why might an individual or a business choose to protect IP with a trade secret?

What methods can be used to protect a trade secret?

In this section, we will introduce trade secrets, how they can be protected, and the pros and cons of this approach to protecting IP.

LEARNING OBJECTIVES FOR TRADE SECRETS – LEARN THE BASICS

By the end of this section, you will be able to:

- Describe what a trade secret is
- Describe what you can do to protect trade secrets
- Outline the pros and cons of trade secrets



UNDERSTANDING TRADE SECRETS

WHAT IS A TRADE SECRET?

Description: The following presentation is a clip from a panel event, “Intellectual Property and Entrepreneurship in Canada” hosted by the University of Toronto Munk School of Global Affairs and Public Policy on March 23, 2021.

To view the entire event, you can watch it here:

https://www.youtube.com/watch?v=o3mr_kYgq0Y.



UNDERSTANDING TRADE SECRETS

WHAT IS A TRADE SECRET?

A trade secret can be any business information that gets its value from its **secrecy**, which includes:

Methods, techniques and processes

Formulas

Recipes

Customer and supplier lists

Undisclosed algorithm in a SaaS solution

A trade secret is maintained to protect valuable business information that a company does not want the general public to know.



UNDERSTANDING TRADE SECRETS

WHAT IS A TRADE SECRET?

Generally, trade secret are used to:

- Ensure that an invention or a design is not disclosed to the public before applying for a patent or an industrial design
- Protect an invention through means other than patent protection (caveat: the same invention may be conceived and then patented by someone else; trade secret rights do not protect you from patent infringement)
- Protect valuable business information that is not formally protected through other IP rights



IP RIGHTS

SECURING A TRADE SECRET

There is no formal application or registration process for trade secrets in Canada.

Protect your trade secret by ensuring that steps are actively taken to maintain the IP as a trade secret such as:

Non-disclosure or confidentiality agreements

Encryption and password protection

Lock and key



UNDERSTANDING TRADE SECRETS

PROS OF TRADE SECRETS

- There are no registration costs attached to a trade secret
- It can be protected for as long as the secret is maintained unless revealed or discovered independently by someone else
- Unlike with a patent or industrial design, you will never have to publicly disclose the details of your trade secret

UNDERSTANDING TRADE SECRETS

CONS OF TRADE SECRETS

Trade secrets may not be the best choice of intellectual property (IP) protection if:

- Your competitors can easily reconstruct your creation
- The effectiveness and the cost of keeping the information secure and confidential outweigh the potential financial benefit, keeping in mind other available types of IP protection mechanisms
- Trade secret theft may be more difficult to prove than patent infringement



CHECK FOR UNDERSTANDING

Which one step below is not part of maintaining trade secret protection?

- a) Protect your trade secret using non-disclosure and confidentiality agreements.
- b) Ensure any physical embodiments of the secret (e.g., notes, hard drives, samples, prototypes, etc.) are kept physically secured.
- c) Encrypt and password protect digital files that disclose the trade secret.
- d) Register the Trade Secret with CIPO.



CHECK FOR UNDERSTANDING

Which one step below is not part of maintaining trade secret protection?

- a) Protect your trade secret using non-disclosure and confidentiality agreements.
- b) Ensure any physical embodiments of the secret (e.g., notes, hard drives, samples, prototypes, etc.) are kept physically secured.
- c) Encrypt and password protect digital files that disclose the trade secret.
- d) Register the Trade Secret with CIPO.

ANSWER: D. There is no formal application or registration process for trade secrets in Canada.

CASE STUDY

COCA COLA VS GATORADE (TRADE SECRET VS PATENTS)



Vault Containing Coca Cola Recipe

Trade secrets can last a lifetime as long as the secret is maintained. Think of Coca Cola's secret recipe for its popular drink. The secret has been kept for over 100 years.

US patent for Gatorade Recipe

Gatorade was invented and patented by Dr. Robert Cade from the University of Florida. He came up with the formula to help the University football team ("The Gators") deal with hot weather. It has generated billions in revenue.

United States Patent [19] [11] Patent Number: **4,981,687**
Fregly et al. [45] Date of Patent: **Jan. 1, 1991**

[54] COMPOSITIONS AND METHODS FOR ACHIEVING IMPROVED PHYSIOLOGICAL RESPONSE TO EXERCISE

[75] Inventors: Melvin J. Fregly; R. Malcolm Privette; Robert Cade, all of Gainesville, Fla.
[73] Assignee: University of Florida, Gainesville, Fla.
[21] Appl. No.: 378,582
[22] Filed: Jul. 17, 1989

Related U.S. Application Data

[62] Continuation-in-part of Ser. No. 226,027, Jul. 29, 1988, abandoned.

[51] Int. Cl.⁵ A61K 47/00; A61K 33/14; A61K 31/70; A61K 31/52

[52] U.S. Cl. 424/439; 424/679; 424/680; 514/23; 514/264; 514/557; 514/738

[58] Field of Search 424/439, 606, 679, 680; 514/53, 264, 557, 738, 23

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ABSTRACT

[57] Disclosed here are novel compositions and methods which can be used to reduce or prevent adverse physiological effects of physical exercise or environmental exposure. The novel compositions comprise fluids containing water, sugar, electrolytes, and a substance which is non-toxic to man or animals, can be rapidly absorbed through the gastrointestinal tract, prevents decreases in blood volume, and acts as an energy source.

8 Claims, 7 Drawing Sheets



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Entrepreneurship

SUMMARY OF LEARNING OBJECTIVES FOR TRADE SECRETS – LEARN THE BASICS

You should now be able to:

- Describe what a trade secret is
- Describe what you can do to protect trade secrets
- Outline the pros and cons of trade secrets