



# TRADE SECRETS

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A **trade secret** can be any business information that derives its value from its secrecy. It can be a method, technique, process, research and analysis data, formula, recipe, device, instrument, etc.

Trade secrets can be very valuable when you have developed new technology, designed original products, created the perfect recipe, or have a gold mine of customer data. However, it may not be the best choice of intellectual property (IP) protection if your competitors can easily reconstruct your creation.

Generally, trade secrets are used to:

- 1 Ensure that an invention or a design is not disclosed to the public before applying for a patent or an industrial design
- 2 Protect an invention through means other than patent protection
- 3 Protect valuable business information that is not formally protected through other IP rights



There is no formal registration process



Protects your information



Lasts as long as it is kept secret

## DID YOU KNOW?

One of the most famous trade secrets is the Coca-Cola formula, which has remained a well-guarded secret for over 100 years. The business value of the formula is why the company goes to extremes to keep it confidential.

## SHOULD I KEEP IT AS A TRADE SECRET?

Evaluating your intangible assets and identifying your IP is an important part of your business. There are no registration costs attached to a trade secret and it can be protected for an unlimited period of time (as long as the secret is maintained). Unlike a patent or industrial design, you will never have to publicly disclose the details of your trade secret. However, you will need to weigh the effectiveness and the cost of keeping the information secured and confidential alongside the financial benefit you could achieve, keeping in mind other types of IP protection mechanisms that are available.



## SECURING YOUR TRADE SECRET

There is no formal application or registration process for trade secrets in Canada. You should consider different ways to keep your valuable business information secret, including:

- 1 non-disclosure or confidentiality agreements
- 2 confidentiality clauses in employment agreements
- 3 encryption
- 4 password protection
- 5 lock and key
- 6 limits on the number of individuals with access to the information

*Remember! Once a trade secret is made public, it loses its business value and legal remedies are complex.*



## SELLING AND LICENSING

Like other forms of IP, you can increase your revenue and market share by selling or licensing your trade secret to industry partners interested in benefitting from the information.



## ENFORCING YOUR RIGHTS

Enforcing a trade secret is the responsibility of the owner. You are responsible for taking the appropriate measures to keep it secret.

For more information on intellectual property, please go to [Canada.ca/intellectualproperty](http://Canada.ca/intellectualproperty) or contact our Client Service Centre at 1-866-997-1936.