

TS25

Trade Secret Quickstart Presentation

Helping you communicate the importance of trade secret management to leadership at your organization.



Transformation of intangible assets

Accounting for up to **90%** of the total value of public companies*

Inversion of the ratio from **50 years ago**

Managing and leveraging these assets is of critical importance to maximize company value

*Source: [Ocean Tomo Intangible Asset Market Value Study](#)

INTANGIBLE ASSETS

Patents
AI/ML data
Market analysis
Licensing
Customer information
Source code
R&D
Competitive intelligence

Digitalization and rapid technology advancements pose significant threats

External cyberthreats

Democratization of access

Open innovation

Supply chain complexity

Determining ownership

Insider threats

Employee job hopping

Organizational management

Identification of IP

Beyond the challenges are plenty of opportunities

Uncover untapped IP you might not know about.


Monetize value of IP through a Trade Secret Protection Program.

Enhance the enterprise value.

Trade secrets and patents aren't mutually exclusive.



Surge in management and protection of trade secrets



America Invests Act
(AIA)

Defend
Trade Secrets Act

Directive on the
Protection of Trade Secrets
(EU)

Despite these legislative advancements, a consensus on the optimal approach to managing information assets remains elusive.

Achieve the best possible governance of information assets



Pioneering a transformative approach to safeguarding and profiting from trade secrets, an increasingly critical type of intellectual property protection suited for organizations of all sizes and industries in today's dynamic global business environment.

IP protection plans



Patent

Protects specific new technological solutions.



Copyright

Protects form of expression.

TM

Trademark

Protects goodwill in brand.



Design

Protects exterior appearance of product.



Trade secret

Protects information.

Trade secret management is a board-level topic intended to drive greater attention and focus on management accountability.

What qualifies as a trade secret?

Any information that is:

- Not generally known
- Not readily ascertainable
- Derives competitive value from secrecy
- Is protected by “reasonable efforts”
- Skill and general knowledge aren’t covered
- Potentially permanent, but not exclusive

UTSA §1(4)

Information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

DURATION: Until information is disclosed.

Understanding “reasonable effort”

Value of the information

- Focus on what is most important to keep secret
- Many secrets, especially business data, degrade over time
- Almost all secrets will eventually become known

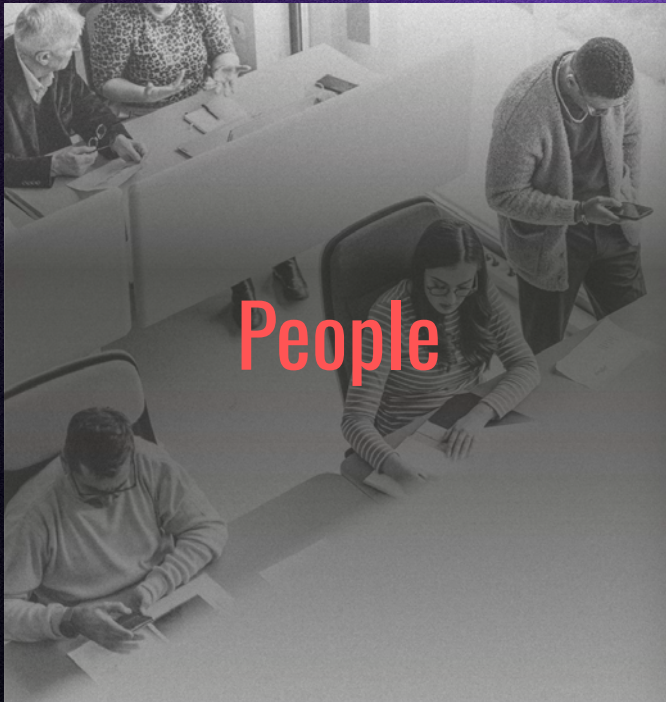
Risk of loss or contamination

- What are the threat vectors?
- What’s the likelihood they will come to pass?

Consider mitigation measures

- What mitigation techniques might reduce risk?
- What do they cost (money, administration, friction)?

Risk areas to evaluate for your organization



People



Process



Management



Protections to consider | People

Recruitment and on-boarding

- Sometimes the best hire might be dangerous.
- Review contracts that could constrain scope of work.
- Establish protocols and warnings not to bring information.

Training

- Employees are the most common information leaks.
- Training is the cheapest form of prevention.
- Effective training is continuous and varied.

Termination

- Lock down access to systems.
- Consider data forensics.
- Conduct a thorough exit interview.

Protections to consider | Process

Polices

- Clear policies to protect your data and respect others’.
- Reinforce through active management and training.
- Pay special attention to social media and remote work.

Access control

- Apply the principle of “need to know.”
- Coordinate with HR—as positions change, access changes.
- Keep record classification systems simple.

Endpoint controls

- Map where data travels and is stored—who has access and how?
- Establish procedures for use of employee-owned devices.
- Deploy robust tools for employee departures.

Protections to consider | Management

NDA management

- The ubiquitous NDA gets little attention and is sometimes hidden.
- It's not a form, it's a contract—it deserves negotiation.
- Most problems arise from lack of execution and follow-up.

International supply chain

- Specify your expectations for security.
- Get NDAs from individuals.
- Carefully track ownership issues.
- Provide for penalties, get U.S. jurisdiction if possible.
- Consider arbitration.
- Exercise audit rights vigorously.

Litigation avoidance and control

- Trade secret litigation is costly in many ways.
- Emotional issues require supervision.

Pulse check to assess your Trade Secret Protection Plan

1

In the past 12 months, has your company undertaken an audit or review to document the trade secrets or other confidential information that it created?

2

Have you identified the groups or individuals in “IP-producing” and “IP-handling” roles at your company most likely to be implicated in its IP rights?

3

Have you trained those groups or individuals on best practices for documenting the creation and/or handling of that information?

4

Do you and key personnel know the rules around how/when a marketing pitch or product demo can destroy the “secrecy” or IP value of those assets forever?

5

Do you and your employee managers have a standard process for managing potential IP risks of employees, whether coming into or exiting the company?

**If you answer “no”
to any of these questions,
it’s time to shore up your
trade secrets protection.**

Advocating for a Trade Secret Protection Program

1

Provide a clear value proposition for a Trade Secret Protection Program, demonstrating how it will protect competitive advantage, drive revenue, and add value to the company.

2

Highlight risks the program will mitigate, such as financial loss and legal exposure, and the potential consequences of inaction.

3

Align the Trade Secret Protection Program with the company's broader strategic goals to demonstrate its relevance and benefits.

4

Present a feasible, phased implementation plan that addresses cost and complexity concerns, focusing on quick wins and simplicity.

5

Support your case with data.

6

Convey a sense of urgency and explain why acting now can help the company avoid risks and seize opportunities.

Get started today.
Discover more at TS25.org