

# A Brief Introduction to Trade Secrets



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# Intro to Trade Secrets

- Review NCET2 webinar of August 8, 2012 for more basics:  
[http://center.ncet2.org/index.php?option=com\\_content&view=article&id=524&Itemid=87](http://center.ncet2.org/index.php?option=com_content&view=article&id=524&Itemid=87)
- Other good resources:  
<http://www.stopfakes.gov/learn-about-ip/trade-secrets/about>  
<http://www.china-iprhelpdesk.eu/emodule/5/>



# What is a Trade Secret?

## Three fundamental concepts:

- 1) Information is secret; not known to the public or to those involved in the industry.
- 2) Has commercial value; used in business and gives the owner a competitive advantage.
- 3) The owner of a trade secret must take reasonable measures to maintain its secrecy.



# Trade Secret vs. Patent

## Trade Secret

- Indefinite
- Not registered or disclosed
- Can be separately discovered
- Remedies only if the secret is illegally appropriated

## Patent

- Limited lifetime
- Patents are granted by a national intellectual property office
- Provides protection in exchange for disclosure and provides the rights to exclude others
- Remedies for infringement





# Trade Secret Appropriation

Competitors may attempt to learn each other's trade secrets through:

- lawful methods of reverse engineering
- or through illegal industrial espionage.
- Most legal regimes will prohibit industrial espionage methods (theft, breaking and entering, surveillance)
- Trade secret regimes provide a separate legal tool to prohibit misappropriation—not infringement.



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