

An Overview on Trade Secrets



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FOREWORD

As India continues to chart its course towards becoming a global economic powerhouse, the protection of intellectual property rights stands as a cornerstone of its journey. In a world driven by innovation and knowledge-based economies, safeguarding these intangible assets is paramount to fostering a conducive environment for economic growth, technological advancement, and sustainable development.

The post-TRIPS era has seen India enact legislations on all Intellectual Property Rights barring trade secrets. While contentions have been raised from both sides, it is time that India enacts a *sui generis* legislation for the protection of trade secrets. Historically, this may not be what India had argued when TRIPS was being negotiated, however, what needs to be realised is that the current economic scenario and state of development of our indigenous industry is substantially different from then. In an era of emerging technologies and sectors such as Artificial Intelligence, Blockchain, etc., it is important that India takes all necessary steps to retain its edge in the global economy.

This knowledge report on trade secrets protection in India comes at a crucial juncture, as the nation navigates the complexities of a rapidly evolving global marketplace. Through a comprehensive analysis of the legal framework, enforcement mechanisms, and emerging trends, this report sheds light on the opportunities and challenges that India is facing in the realm of trade secrets protection.

Justice Ritu Raj Awasthi
(Former Chief Justice of High Court of Karnataka)
Chairperson
22nd Law Commission of India



न्यायमूर्ति ऋतु राज अवस्थी
(सेवानिवृत्त मुख्य न्यायाधीश, कर्नाटक उच्च न्यायलय)
अध्यक्ष
भारत के 22^{वें} विधि आयोग

This report not only provides a snapshot of the current landscape but also offers valuable insights and recommendations for policymakers, businesses, IP practitioners, and stakeholders alike. By fostering a deeper understanding of the legal and regulatory framework, and advocating for stronger enforcement mechanisms, we can create a more secure and conducive environment for innovation to thrive.

I commend the authors of this report for their diligent research and insightful analysis. I trust that their findings will serve as a catalyst for dialogue, collaboration, and action towards strengthening trade secrets protection in India. To this end, I find myself fortunate to have had the distinct privilege as the Chairperson of the 22nd Law Commission of India to engage with the present issue and work on a report, advocating the enactment of a *sui generis* legislation for the protection of trade secrets.

Together, let us strive to build a future where innovation flourishes, intellectual property rights are respected, and India continues to shine on the global stage.

Jai Hind!

A handwritten signature in blue ink, appearing to be 'Ritu', with a long horizontal stroke extending to the right.

(Justice Ritu Raj Awasthi)

Foreword

Deepak Sood

Secretary General, ASSOCHAM



In today's rapidly evolving global economy, the protection of trade secrets and the prevention of economic espionage have become paramount concerns for businesses worldwide. The current legal framework in India for trade secret protection and economic espionage, encompassing Civil Law, Criminal Law, and the Information Technology Act of 2000, lacks clarity and effectiveness. Unauthorized exploitation of unprotected trade secrets poses significant international threats and economic consequences.

There is a pressing need for a codified law with a dedicated regulator, akin to the Competition Commission of India (CCI), to provide clarity and robust enforcement mechanisms, safeguarding industries, and the economy at large. Moreover, the imperative is to address these critical issues that impact the very foundation of innovation, competition, and economic growth.

This report delves into the key issues that will help shape this law and hopes to spur a discussion around the same. These include independent economic value and apportionment, key issues in pleading and proving trade secret claims, latest trends in trade secret litigation and strategy, reverse engineering, non-competes and employee mobility and the rise of AI and associated trade secret Issues among others. We hope that this will give a deeper sense of sensitisation and will provide a way forward to address the issues and provide protection to the stakeholders and economy.

My sincere thanks to Shardul Amarchand Mangaldas & Co. Advocates and Solicitors for partnering with ASSOCHAM in bringing out this joint knowledge report and for curating an interesting platform for discussion on the evolving dynamics of the trade secrets law regime.

Deepak Sood

Secretary General, ASSOCHAM

Foreword

Dr. Shardul S. Shroff

Executive Chairman

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Chairman – ASSOCHAM National Council for Legal Affairs and Regulatory Reforms



This Knowledge Report is prepared for the International Conference on “Protection of Trade Secrets & Economic Espionage” hosted by the Law Commission of India and The Associated Chambers of Commerce & Industry of India (ASSOCHAM) on March 6, 2024.

India is emerging as one of the fastest-growing economies in the world and a more attractive investment destination with enormous market potential, rich human resources and reliable supply chains. With such growth comes the need to have extensive protection for intellectual property in all its forms.

While seeking statutory protection of intellectual property is one mechanism to secure rights, a significant portion of intangible proprietary materials owned and used by various entities is held in confidence and is, to that extent, a trade secret. Trade secrets are valuable to every organization as their economic benefit is dependent on secrecy. Companies, specifically Indian companies, have felt the inability to prevent leakage of economically valuable information, especially in the engineering, data and other knowledge based sectors of the economy. Therefore, companies recognise that there is incentive in adopting methods and putting in place safeguards in keeping such information out of the public domain. Often the method adopted by right owners are in the nature of contractual restrictions and other security measures at their premises. However, the need for a concrete mechanism, supported by a legislative recognition for trade secrets has been felt by the industry for some time now.

While the Paris Convention was the first international convention which contained express provisions relating to the protection of trade secrets, the TRIPS Agreement has also subsequently introduced provisions to prevent trade secrets (undisclosed information), from being disclosed to, acquired by, or used by others, without the right owners consent, and in a manner contrary to honest commercial practices. Countries around the world have, on the basis of the guidance from the conventions adopted domestic legislations and mechanisms to protect trade secrets and provide a mechanism for enforcement thereof. The present Knowledge Report highlights the trends in terms of protection of trade secrets around the world, including identifying the various mechanisms adopted in jurisdictions around the world to enforce their violation.

The Knowledge Report also attempts to explore the Indian legal system to identify mechanisms, which would be applicable and may be utilized by right holders in enforcing their trade secrets in absence of a specific legislation. Given the digital nature in which the workforce is engaged, and the sensitivity around technical advancements and their commercial value to competitors and other third parties, the need of the hour is for India to have a robust mechanism, which secures right holders and provides safeguards to enforce and curtail misuse of economically valuable information. This Knowledge Report is also an attempt to highlight some contours to be considered from the perspective of what a potential legislation could cover and address the concerns of the companies doing business in India.

It is hoped that the issues and recommendations highlighted in this Knowledge Report will serve as a useful model to encourage in redressal of the concerns of all stakeholders.

Dr. Shardul S. Shroff

Executive Chairman

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An Overview on Trade Secrets

Introduction

Trade secret law is the oldest form of intellectual property protection. In ancient Rome, trade secret laws established legal consequences for a person who induced another's agent to divulge secrets relating to the master's commercial affairs. Trade secrecy was practiced extensively in Medieval European guilds. Modern trade secret law, however, evolved in the early 19th century; in England, in response to the growing accumulation of technology and know-how and the increased mobility of employees. Trade secrets are now more relevant than they were a few decades ago as a tool for protecting innovation, and the stakes involved in their protection are getting higher. This is because in many fields technology is changing and has surpassed the existing laws intended to encourage and protect inventions and innovations.

Historically, trade secrets constitute a dynamic terminology, which focuses on various aspects of industrial or commercial matters across the sphere. Trade contributes to the development of a country in various aspects. Eventually, the practices adopted by the traders also have a direct impact on the livelihood, and also cause economic fluctuations in the country. In the context, 'trade' includes not only exchange of goods and services for value, but also manufacturing. 'Trade secrets' include, for the purposes of this submission, trade secrets, confidential and proprietary information. These terms overlap but are not interchangeable in their meaning. However, when viewed from the point of view of protection, they can be collectively referred to as trade secrets, unless the context otherwise requires.

For trade secrets, there is no subject matter or term limitation, registration or tangibility requirement. Furthermore, trade secret protection continues as long as the subject matter is not generally known or available. What does matter is secrecy – that the information is not known by outsiders.

The term trade secret has not been categorically used in the conventions, however, an inference can be drawn from the issues as indicated in the Paris Convention, 1883¹. Article 10, inclusively refers to the issue of unfair competition and prescribes that '*any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition*'. Wide as this definition may be, it is still very relevant as the principles it covers ensures a fair system that enables, even incentivizes, investment into the creation of intellectual capital of enterprises, and the state as a whole.

Further, The Trade-Related Aspects of Intellectual Property Rights ('TRIPS Agreement'), while adopting the broad principles already laid out, addresses some specific incidences as to what may be considered to be proprietary. Article 39 of the Agreement is reproduced for ease of reference:

"39.

- 1. In the course of ensuring effective protection against unfair competition as provided in Article 10bis of the Paris Convention (1967), Members shall protect undisclosed information in accordance with paragraph 2 and data submitted to governments or governmental agencies in accordance with paragraph 3.**
- 2. Natural and legal persons shall have the possibility of preventing information lawfully within their control from being disclosed to, acquired by, or used by others without their consent in a manner contrary to honest commercial practices, so long as such information:**
 - a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the**

¹ Paris Convention, 1883 - https://www.unido.org/sites/default/files/2014-04/Paris_Convention_0.pdf



kind of information in question;

b) has commercial value because it is secret; and

c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

- 3. Members, when requiring as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data the origination of which involves a considerable effort, shall protect such data against unfair commercial use. In addition, Members shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use.”**

Correspondingly, trade secrets have been consciously considered within the TRIPS agreement, which demonstrates the concern of the members. Additionally, the Trans-Pacific Partnership Agreement (TPP), which is under consideration, includes protections that are stronger than the minimum set by the TRIPS Agreement and bilateral trade agreements. The TPP requires that the parties provide protections from misappropriation, including by state-owned entities, as well as criminal procedures and penalties in certain circumstances. Misappropriation or theft of trade secrets, according to industry estimates, is said to cost between 1-3% of GDP in developed economies. In cyber theft of trade secrets, only 10% of costs are the immediate and direct impacts, the remaining 90% is a longer-term loss of competitive edge in know-how, commercial competitive advantage, and jobs ². Given its importance, protection of trade secrets in international law has only gained more prominence, and its protection continues to be a matter of concern.

² ‘The Economic and Innovation Impacts of Trade Secrets’, paper delivered by Dr Nicola Searle on behalf of the Intellectual Property Office, UK.

³ Article 21 of UCPA.

Legislative Position with Respect to Trade Secrets in Jurisdictions around the World

While most of the jurisdictions have adopted broad principles of protection for trade secrets envisaged in the TRIPS Agreement and TPP, the legal positions still vary. A brief legislative framework in respect of trade secrets in few jurisdictions is as follows:

Japan

The Unfair Competition Prevention Law, 1993 (“UCPA”) lays down principles for protection of trade secrets. It outlines three requirements for conferring protection on trade secrets, these being: (a) secrecy; (b) commercial value; and (c) reasonable measures taken to keep it secret. The UCPA does not require any registration or filing of trade secrets to protect them. In Japan, courts can grant injunctions, order compensation, and impose criminal penalties for misappropriation of trade secrets³.

Korea

In Korea, trade secrets are governed by the [Unfair Competition Prevention and Trade Secret Protection Act](#), 1961 (“UCPAT”). The UCPAT defines a trade secret as an information, including production methods, sales methods, useful technical or business information for business activities, which is not known publicly, is managed as a secret, and has an independent economic value. Under the UCPAT, when trade secrets’ misappropriation continues, the right to claim injunction against or prevention of the misappropriation expires unless the right is exercised within three years from the date on which the trade secret owner becomes aware of the identity of the person misappropriating the trade secret. Such right also expires when ten years have elapsed after the date on which the misappropriation first occurred. Further, the Act on Prevention of Divulgence and Protection of Industrial Technology, 2006, prevents undue divulgence of, and protects the industrial technology in order to strengthen the competitiveness



of Korean industries and contribute to national security and development of the national economy.

United Kingdom

The United Kingdom has two separate regimes for protecting trade secrets, which operate parallelly i.e., (a) common law of confidentiality (breach of confidence); and (b) [Trade Secrets Enforcement Regulations 2018 \(SI 2018/597\)](#) (“the Regulations”). The Regulations came into force in the United Kingdom on June 9, 2018, and implemented the EU Trade Secrets Directive (EU) 2016/943. The Regulations enable courts to grant injunctions, damages, and impose criminal sanctions. Under Article 2 of the Regulations, trade secrets is defined as an information:

- which is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question;
- has commercial value because it is secret; and
- has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

European Union

The Directive (EU) 2016/943 (“TSD”) and the European Union (Protection of Trade Secrets) Regulations 2018 (“Regulations”) harmonize trade secret protection within the European Union. TSD lays out similar criteria as other jurisdictions, defining a trade secret as information with independent economic value due to being secret, known only to a limited circle of persons, and subject to reasonable steps to keep it secret. The TSD deals only with civil remedies against the unlawful acquisition, use and disclosure of trade secrets. The laws and regulations of other states of the European Union on criminal sanctions, use of trade secrets in administrative, public procurement or other national proceedings before governmental or other public authorities are out of the scope of the TSD and remain unaffected. In addition, to give effect to the redressal mechanism in the TSD, the Regulations provide for civil redressal measures and

remedies in the event a trade secret is unlawfully acquired, used or disclosed. The Regulations also ensure the confidentiality of the trade secret during court proceedings by limiting access to the hearing and court documents containing the trade secret.

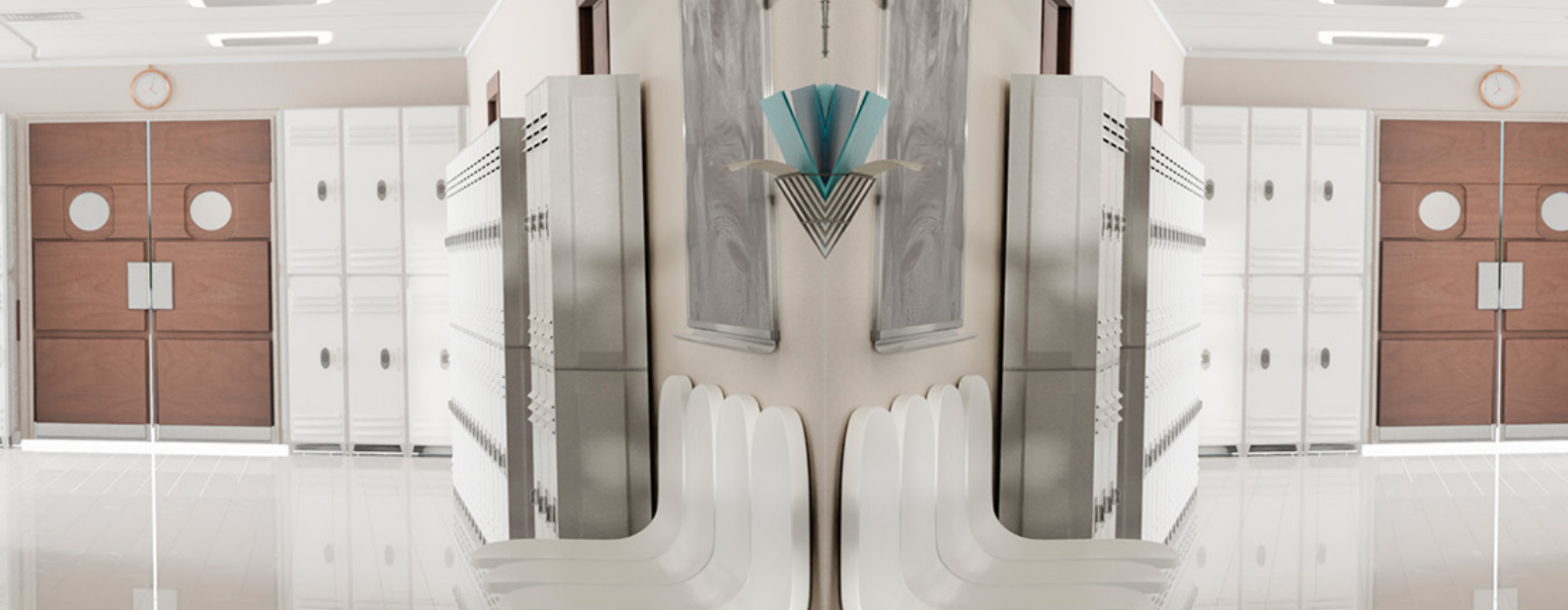
On June 8, 2016, following a proposal from the European Commission, the European Parliament and the Council adopted a directive that aims to standardise the national laws in EU countries. It is crucial to state herein that the European Parliament also defined trade secrets. Without establishing criminal sanctions, the proposal harmonises the civil means through which victims of trade secret misappropriation can seek protection, such as:

- Stopping the unlawful use and further disclosure of misappropriated trade secrets.
- The removal from the market of goods that have been manufactured on the basis of a trade secret that has been illegally acquired.
- The right to compensation for the damage caused by the unlawful use or disclosure of the misappropriated trade secret.

EU countries were required to bring into force the laws in consonance with the Directive by June 9, 2018. As a consequence thereof, the following measures were introduced:

Legislation enacted in France pursuant to the European Parliament directive

Law No. 2018-670 of July 30, 2018, on trade secret protection transposes Directive (EU) 2016/943 of the European Parliament and of the Council of June 8, 2016 on the protection of undisclosed know-how and business information against their unlawful acquisition, use and disclosure. This law amends the Commercial Code to specify protectable subject matter and the conditions for trade secret protection; to set out the preventive measures, injunctions, and compensation on infringement of trade secrets; and to introduce general measures to protect trade secrets through civil or commercial courts.



Legislation enacted in Germany pursuant to the European Parliament directive

Germany had adopted a law in pursuance of the directive of the European Parliament called "Trade Secrets Protection Act". It was adopted on April 25, 2019. Article 2 of the Act, provides the definition which is *pari materia* to Article 39 of TRIPS agreement, which is to say that in order to be actionable, a 'trade secret':

- must be secret;
- must have commercial value because it is secret; and
- must have been subject to reasonable steps to keep it secret.

United States of America

In the United States, the Defend Trade Secrets Act of 2016 ("DTSA") established a federal trade secret law. It defines a trade secret as information with independent economic value due to its secrecy and reasonable efforts to maintain it. USA enacted the law on trade secrets called "Defend Trade Secrets Act of 2016"⁴, whereby by virtue of Section 2, an owner of a trade secret that is misappropriated may bring a civil action. There is a distinction between the trade secrets and Patents which Runlike [Uniform Trade Secrets Act](#), ("UTSA") adopted by most of the states in the US, except New York, DTSA offers *ex parte* seizure orders. As of 2020, UTSA had been adopted by 48 states, though some states have slightly broader or narrower definitions of trade secrets than others. Meanwhile, New York has adopted the approach of relying on common law principles for conferring protection on trade secrets.

Additionally, the Economic Espionage Act of 1996⁵, made it a federal crime to misappropriate trade secrets for either foreign espionage or commercial purposes. Under this law, the crime of economic espionage consists of stealing a trade secret to "benefit any foreign government, foreign instrumentality, or foreign agent" and may be punished by fines on both individuals and organizations and prison sentences of up to 15 years. And the crime of commercial theft consists of stealing a trade secret to 'injure any power of that trade secret' and may be punished by fine which may extend to \$5,000,000 and prison sentence of up to 10 years. It is relevant

to mention that the Courts have been empowered to pass any orders that would help preserve confidentiality of materials embodying the trade secret(s). The definition as transpires from this Act, delineates that "*the term 'trade secret' means all forms and types of financial, business, scientific, technical, economic or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedure, programs or codes whether or how stored, compiled or memorialized physically, electronically, graphically, photographically or in writing if –*

- The owner thereof has taken reasonable measures to keep such information secret, and
- The information derives independent economic value, actual or potential from not being generally known to, and not being readily ascertainable through proper means by, the public."

In addition, the trade secret owners may file certain misappropriation claims at the U.S. International Trade Commission (ITC) under Section 337 of the Tariff Act of 1930. The ITC may issue injunctions to stop the importation of products that harm U.S. industry and are made using misappropriated trade secrets. The ITC may order such relief even if the acts of misappropriation take place outside the United States. This Section endeavors to counter the unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale, are unlawful if these unfair acts or methods of competition have the effect or tendency to (i) destroy or to substantially injure an industry efficiently and economically operated in the United States, (ii) prevent the establishment of such an industry, or (iii) restrain or monopolise trade and commerce in the United States. The unfair acts and methods of competition in question, include the importation or sale of goods that infringe valid United States patents. Section 337a specifically applies Section 337 to the importation or sale of products produced abroad by a process covered by a United States patent. Since it was revised in the Trade Act of 1974, the majority of investigations under Section 337 have concerned alleged infringements of patents.

4 Defend Trade Secrets Act of 2016 - <https://www.congress.gov/114/plaws/publ153/PLAW-114publ153.pdf>

5 Economic Espionage Act of 1996 - <https://www.congress.gov/104/plaws/publ294/PLAW-104publ294.pdf>



Therefore, while similarities exist in protecting trade secrets across jurisdictions, there is no universally accepted practice and subtle differences remain.

Protection of Trade Secrets in India and Remedies

In India, since there is no statutory protection for trade secrets and they are protected under the law of contracts, the protection ceases only when a trade secret is disclosed and it becomes public or when the sensitive nature of the trade secret is compromised. There is no distinction between voluntary and accidental disclosure of a trade secret made in India. Any disclosure of a trade secret, irrespective of the circumstances in which it was made, would lead to cessation of protection as a trade secret. Controlled disclosure of a trade secret in India would be disclosure under contract, in which case the owners of trade secrets are required to prove that their disclosure amounted to breach of contractual obligations. Furthermore, if the right holder apprehends an unauthorised disclosure of his trade secret, he may seek assistance from the court for equitable relief.

Some of the existing mechanisms to adopt while enforcing trade secrets in India are as follows:

Civil Law

- Trade Secrets are only protected under principles of equity established through judicial precedents. In this context often foreign jurisprudence needs to be relied upon, which does not always sit well as important aspects of the law in relevant jurisdictions is codified, and India does not have such codification.
- In addition, trade secrets are protected to a limited extent under contract law: a) as licensed materials, and b) as areas of 'no competition' i.e. non-compete.
- One major drawback under contract law can be Section 27 (restraint of trade) of the Indian Contract Act, 1872 ("**Contract Act**"). This is only because, in absence of codified law, a clear line is not drawn between trade secrets and provisions in contract, that may be interpreted to operate in restraint of trade.

Criminal Law

- Criminal laws are rarely invoked, primarily because a) the complainant is hardly in control of the process, and b) it is difficult to impress upon the police that there is value in the trade secret or that there has been a misappropriation. There is no defined criminal offence for violation of trade secrets in India.
- The Sections in the India Penal Code, 1860 ("**IPC**") that may be invoked are (note that while the relevant provisions have been mapped against the IPC, corresponding equivalent provisions would also apply under The Bhartiya Nyaya Sanhita, 2023):
 - Section 378, Theft, where moveable property embodies the intangible (maximum 3 years in prison).
 - Section 403, Dishonest misappropriation of property, where moveable property embodies the intangible (maximum 3 years in prison).
 - Section 405, Criminal breach of trust, where the subject matter may be embodied in a property (as opposed to moveable property – an aspect that needs confirmation is whether 'property' includes immoveable property) (maximum 3 years in prison).
 - Section 409, Criminal breach of trust by public servant, or by banker, merchant or agent, where the subject matter may be embodied in a 'property' (as opposed to moveable property – an aspect that needs confirmation is whether 'property' includes immoveable property) (maximum 10 years in prison).
 - Section 420, Cheating and dishonestly inducing delivery of property, where the subject matter may be embodied in a property (as opposed to moveable 'property' – an aspect that needs confirmation is whether property includes immoveable property) (maximum 7 years in prison).

Information Technology Act, 2000 ("**IT Act**")

- Section 43 relates to penalty and compensation for damage to computer, computer system, etc. This provision requires accessing computer systems a) in an unauthorised manner,



and b) only relates to digitally stored materials. Therefore, this provision is limited in scope of materials and in terms as what constitutes misappropriation. (maximum 3 years in prison).

- Section 72 imposes a penalty which may extend to a fine of INR 2 lakh, or imprisonment for up to two years, on any person who gains access to an electronic record, book, register, correspondence, information, document or other material, without the consent of the concerned person.

The Official Secrets Act, 1923

- This piece of legislation in India is designed to curb espionage and to impose criminal penalties against any individual attempting to get access to a secret information that may prejudice the security of the State. Legislation relating specifically to industrial espionage is yet to evolve in India.

Is Confidential Information The Same As Trade Secrets

As per the World Intellectual Property Organisation, “*any confidential information which provides an enterprise a competitive advantage may be considered a trade secret.*” Adhering to the TRIPS Agreement, which deals with protection of undisclosed information, it is evident that trade secrets is a category of confidential information. All trade secrets are confidential information, however, the reverse may not always be true. For instance, customer lists, clients, deliberations at a board meeting may be confidential but they do not qualify as trade secrets. The question then arises is, what is the distinction between trade secrets and other forms of confidential information? In absence of any effective legislation on the topic, the question of interpreting and differentiating between the two falls upon the courts. However, in judgements such as **Fairfest Media Ltd. v ITE Group⁶**, **Diljeet Titus v Alfred A Debare⁷**, demonstrates that courts have used these two terms interchangeably. While the UK formed regulations on Trade Secrets⁸ only in 2018, however, prior to the same the courts had successfully differentiated between trade secrets and other confidential information by laying down the

principle, wherein they had observed that an employee could not be restrained from disclosing confidential information that did not amount to trade secrets post the period of employment, until an express contract to that effect was present as set out in **Faccenda Chicken v Fowler⁹**. In India, the courts have not made a distinction between confidential information and trade secrets, and they are being treated in the same fashion.

Foreign Judicial Precedent In Relation To Trade Secret

- **Saltman Engineering Co. v. Campbell Engineering Co., ((1948) RFC 203)**, in which the court held that:
 - If two parties make a contract, under which one of them obtains for the purpose of the contract, or in connection with it, knowledge of some confidential matter then, even though the contract is silent on the matter of confidence, the law will imply an obligation to treat such confidential matter in a confidential way as one of the implied terms of the contract, but the obligation to respect confidence is not limited to cases where the parties are in confidential relationship.
 - If a defendant is proved to have used confidential information, obtained directly or indirectly, from a plaintiff, without the consent, express or implied, of the plaintiff, he or she will be guilty of infringement of the plaintiff’s rights.
 - It would not matter the least bit whether there was a contract if the defendants got those drawings into their hands knowing, or knowing shortly afterwards, that they belonged to Saltmans, that they were obviously confidential matter, and that they had got them into their hands for a strictly limited purpose.

The court also held that for information to be confidential, it must, apart from a contract, have the necessary quality of confidence about it, such that it must not be something which is public property and public knowledge.

⁶ (2015) 2 CHN Cal 704

⁷ (2006) 130 DLT 330

⁸ The Trade Secrets (Enforcement, etc.) Regulations 2018

⁹ [1986] IRLR 69, CA



- *COCO v. A.N. Clark (Engineers) Ltd.* (1969 RPC 41), wherein the plaintiff designed a moped. The defendant company expressed interest in making the proposed moped. The plaintiff supplied the defendant with *inter alia* information, drawings and other aids towards the production of the moped, and the moped came to be known by the name of the plaintiff as Coco moped. Later, the defendant told the plaintiff that the method of transmission in the Coco moped was creating an issue and the defendant had decided to make its own moped to a design different from that of the plaintiff. However, through advertisements, the plaintiff became suspicious that the engine would in substance be the same as his. In a letter dated 17th April 1948, the defendant admitted that the piston and carburettor were of the same type. In a suit brought by the plaintiff, the court observed that the obligation of confidence may exist where there is no contractual relationship between the parties. In cases of contract, the primary question is that of construing the contract and any terms implied in it. When there is no contract, the question must be one of what suffices to bring the obligation of confidence into being.

The Court held that where the information was communicated in confidence in the expectation that the plaintiff would receive a monetary reward therefor, it was doubtful whether an injunction against using the information was the appropriate remedy if a dispute occurred. The plaintiff had succeeded in establishing the condition required for breach of confidentiality, namely the circumstances in which the information was imparted, imported an obligation of confidence. However, as per the learned Judge, the plaintiff had failed to establish that the information had the necessary quality of confidence for an interlocutory relief to be granted on the basis of the evidence submitted.

"The two engines enjoy a number of close and important similarities. But, as Mr. Alexander pointed out with force, that is not enough. What matters is how far the Scamp achieves these similarities by drawing on confidential information imparted by the plaintiff in confidence, and how far these factors had produced in Coco an engine

which had any originality or other qualities that could provide information of a confidential nature."

As per the learned Judge the plaintiff had failed to show a *prima facie* case of infringement, which was reasonably capable of succeeding.

- *JC Bamford Excavators Ltd v Manitou UK Ltd and another*, [2024] 2 WLR 504), wherein JCB alleged that Manitou had infringed four of its patents. Prior to trial, both parties agreed to a confidentiality club regime to protect the confidentiality of claimed information. The judge made an interim order under CPR 31.22(2) to preserve the confidentiality of that information until after judgment. Most of the judgment took part in open court, but parts of the hearing were in private. After multiple discussions between the parties, it was agreed that much of the information contained in the Confidential annex could be published. The primary issue rose with respect to one of the heads that Manitou claimed confidentiality for (head 1). The judge concluded that head 1 constituted confidential information but also came to the conclusion that to balance the open justice principle with Manitou's claim of confidentiality, head 1 information is to be included in the public version of the confidential annex. In appeal the court stated that the correct way to describe Manitou's application is as an application to protect alleged technical trade secrets, which is a longstanding exception to the open justice principle. The court noted that the requirements laid down in *Coco v A.N. Clark* along with the further requirement of unauthorized use being without lawful justification form the ingredients of a successful claim for an action for breach of confidence. The burden of proof is on the defendant to establish the use had a lawful justification. The Court further held that no claim of confidentiality can be maintained in respect of information contained in a document, such as a design drawing if that information can readily be obtained by inspecting an article which is publicly accessible. By contrast, relative confidentiality can be claimed in respect of information contained in a document if the information can only be obtained from the article by a process of reverse engineering, which takes time, effort, and skill. In the latter, the person to



whom the information is imparted in circumstances importing obligation of confidence will be liable for breach of confidence if they use the document as a short cut rather than undertaking the exercise of reverse engineering.

The court relying on *Mustad v. Dosen*¹⁰ observed that once the information in question is in the public domain, relative confidentiality concept will not apply even if the defendant does not obtain the information from a public domain source. The court stated that conversely if a person who undertakes the exercise of reverse engineering a publicly accessible article, rather than taking a short cut by misusing a confidential document is free to use the information obtained as a result of that exercise even if it takes a significant amount of work.

Domestic Evolution & Judicial Interpretation In India

- *Burlington Home Shopping Pvt. Ltd. v. Rajnish Chibber & Anr. (1995 SCC Online Del 746)*, the Hon'ble Delhi High Court touched upon the aspects of trade secrets pertaining to copyright in reference to business data and observed that "Trade Secret law protects a wide array of business data:Customer lists and other compilations of business data may be copyrightable as fact works. In theory, copyright and trade secret law protect different elements of compiled business data, with copyright protecting the expression in these compilations and trade secret law protecting the underlying data. In fact, copyright and trade secret protection for compilations of business data frequently converge. Copyright protection for business directories often extends to the underlying data, and trade secret protection may extend to particular expressive arrangements of data." The judgment deals with the trade secret laws with respect to its interface with copyright law.
- *Tata Motors Limited & Anr v. State of Bengal (WP No. 1773 of 2008)*, the Hon'ble High Court of Calcutta, referred to the definition of Trade Secrets in Black Stone Dictionary as "14.A formula, process, device, or other business information that is kept confidential to maintain an advantage over competitors; information-including a formula, pattern,, compilation, program, device, method, technique, or process-that (1) derives known or readily ascertainable by others who can obtain economic value from its disclosure or use, and (2) is the subject of reasonable efforts, under the circumstances, to maintain its secrecy".
- *John Richard Brady and Ors. v. Chemical Process Equipments P. Ltd and Ors. (AIR 1987 Delhi 372)*, the court held that the specifications, drawings and other technical information, in this case in relation to the fodder production unit (FPU) of the plaintiff, which were transferred to the defendant were confidential in nature.
- *Diljeet Titus, Advocate v. Alfred A. Adebare And Ors, (2006(32) PTC 609(Del))*, which related to the theft of client information by an attorney at a law firm, the Hon'ble High Court of Delhi held that "The information about clients and solicitors also to some extent is in public domain where it appears in printed directories and everyone can use the same. However, as an advocate or a law firm develops its work and relationship with other law firms or clients, the details about the particular persons in such law firms handling certain nature of work or as to which officer in a client's company is material for getting the work becomes of great importance. Such a list is of great importance to an advocate or a law firm. The mere fact that defendants would have done work for such clients while being associated with the plaintiff would not give them the right to reproduce the list and take it away. It may again be emphasised that it is possible that a part of this information is retained in the memory of the defendants and if that is utilised no grievance can be made in this behalf. This would, however, be different from a copy made of the list." The court further held that since the plaintiff and the defendant were involved in competing businesses, providing legal services, the defendant's use of the list of clients, opinions and agreements of the plaintiff would prejudice the plaintiff. Therefore, the defendant was found to be taking advantage of the plaintiff's confidential information.
- *Homag India Private Ltd v. Mr Ulfath Ali Khan & Anr (2012 SCC OnLine Kar 9199)*, the court held that non-existence of an actionable right would not be assumed, merely due to the absence of a contract between the parties, as long as the petitioner could establish the wrongful disclosure of its proprietary information by the defendant. The court also held technical information relating

¹⁰ Reports of Patent, Design and Trade Mark Cases, Volume 80, Issue 2, 11 April 1963, Pages 41-44.



to the manufacturing process and technical know-how of the plaintiff's machine to be confidential in nature.

- *Zee Telefilms Ltd v. Sundial Communication Pvt Ltd, (2003(3) MH LJ)*, involved a dispute relating to a concept for a television programme developed by the plaintiff, which was thereafter conceived by the defendant. The plaintiff had presented its concept for the television programme to the defendant, in anticipation of a collaboration. The court held that since there was substantial similarity between the works of the plaintiff and the defendant, a clear case of copyright infringement was made against the defendant. The court also ruled that the use of the plaintiff's concept by the defendant was in the nature of breach of confidentiality, which could prejudice the plaintiff's business.

It is relevant to mention that trade secrets have been approached by the judiciary in contextual terms only, and wider interpretation which would inform the public of all that is permitted and all that is not, still remains to be defined. The judiciary in its wisdom has interpreted and acknowledged that there is in equity, a natural law that protects trade secrets.

Effective Protection Of Trade Secrets

Trade Secrets are not sufficiently protected under principles of common law, torts, contracts, equity, breach of confidence and general provisions of IPC pertaining to theft of property, misappropriation, and breach of trust. The said provisions and existing inadequacies of the statutes in dealing with protection of trade secrets and combating economic espionage are as follows:

Inadequacy in respect of civil remedies

Contract Act

Trade Secrets are not adequately protected under uncoded law, or under contract law. There is no effective legislation or regime for protection of trade secrets, though Section 27 of the Contract Act¹¹ provides civil remedy up to a certain limit where it restricts a person from disclosing information which he acquired

during the course of his employment. However, the courts have not interpreted the said provision uniformly and therefore, no adequate relief can be determined. Some issues that are not addressed under uncoded law:

- What constitutes a Trade Secret is not in itself a settled position. While anecdotally courts have given observations on specific facts, which can provide a broad perspective on what material can be covered as a trade secret, no specific metric exists.
- The interface with Section 27 of Contract Act is not settled. For example, common stock of skill and knowledge; corporate stock of skill and knowledge; and therefore, acquired stock of skill and knowledge are concepts that still need more judicial precedent.
- The standard of what may constitute an act of unfair competition in the appropriation of skill and knowledge on the one hand, and misappropriation of trade secrets on the other, is fluid. Related to this is the reasonability of non-compete provisions in contract.
- In general, extreme positions favouring one side or the other emerge – either too much latitude is afforded to the plaintiff, who merely alleges loss (wherein assumptions are made in favour of it) OR there is lack of recognition of a trade secret as a trade secret at all.
- In respect of grant of interim injunctions as well, there is little uniformity. The chances of obtaining redressal vary widely, and from unduly favourable to complete denial.
- Judgments which may not constitute sound precedents sometimes end up serving as precedents in the absence of legislative guidance.
- Vagaries of litigation should not have such large amounts of uncertainty attached to them. It defeats the purpose of law. Absence of codified law makes access to law more difficult. The private citizen is now required to know the law of equity. This is an unfair ask in the context of India. Different courts have applied different inconsistent criteria to establish, uphold, and enforce property rights in trade secrets.
- Trade secrets have been approached by the judiciary in contextual terms only, and the wider interpretation still finds

¹¹ Section 27 of the Indian Contract Act 1872.



itself in a vacuum.

IT Act

Section 66 of the IT Act read with Sections 43(a)¹² and 43(b) of the IT Act¹³ penalizes the unauthorized access to a computer system and extraction of data from a computer without authorization from the owner with fine, imprisonment or both.

Although the CERT-IN Rules¹⁴, framed under Section 70B of the Act, do regulate incidents of cyber security and cyber incidents which include the breach of confidential data, however, the redressal mechanism for such a breach affixes responsibility on the user/aggrieved party to report an incident of cyber security infringement within 24 hours of such incident. The CERT-IN Rules are also inadequate to deal with concerted, specialized and technology driven offences such as theft of trade secrets and economic espionage.

Even if a case falls squarely within the contours of these provisions, the offender could be subjected to a meagre fine of a maximum five lakh rupees or imprisonment of up to three years, while the theft of such sensitive data would yield millions to the perpetrator. The disproportionality of the penalty is a major inadequacy of the IT Act in controlling acts of economic and corporate espionage. Another significant downside in the application of the IT Act for regulating such acts is evidentiary and jurisdictional challenges compounded with the lack of harmonization of laws relating to data protection, cyber security and intellectual property.

Inadequacy in respect of criminal remedies

While there seems to be some overlap between the offence in relation to misappropriation of trade secrets as generally framed in other jurisdictions, and the scope of offences covered by Sections 378 / 403 / 405 / 409 / 420 of the IPC and Sections 43 read with 66 of the IT Act, there is no law which specifically deals with an

offence of misappropriation of trade secrets in India. The current provisions under the IPC and IT Act are insufficient since they leave gaps. In fact, they were not drafted keeping trade secrets in mind, though they do offer anecdotal protection to them.

No existing criminal statutes provide any interim relief (or an injunction) to an aggrieved person during a criminal proceeding.

The Trans-Pacific Partnership (TPP) Agreement, which is under consideration, includes protections stronger than the TRIPS Agreement and other bilateral agreements. The TPP requires that parties be provided protection from misappropriation (including by State-owned entities), and criminal consequences and penalties in given circumstances.

Challenges In Protecting Trade Secrets In The Absence Of A Sui Generis Legislation

The challenges faced in protecting trade secrets in the absence of a dedicated legislation is for *inter alia* the following reasons:

- Lack of awareness of equitable corporate and individual rights, and the recognition that, at the end of day, trade secrets are intellectual property.
- Absence of codified law creates a vacuum, which leads to failure in adopting of roadmap for ethical and responsible behaviour among corporates, and individuals. Often individuals who may be in violation are not educated on the implications (under law) of certain actions.
- Even with knowledge, the standard of rights and liabilities are not well understood; and they too keep shifting with new case law, which the common man or even corporates cannot be expected to adapt to periodically.
- Angular routes for some levels of redressal are sought under contract law (non-compete vs. Section 27), principles of fiduciary duty, and, to a limited extent, criminal law. This is primarily for the reason that at least something may be salvaged, and that

¹² Section 43(a) of the Information Technology Act, 2000.

¹³ Section 43(b) of the Information Technology Act, 2000.

¹⁴ The Information Technology (The Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013.



the action taken will operate as discouragement within and out of the organisation.

- There is no codified recognition of intellectual capital as one lying outside the domain of classical statutory intellectual property.
- Absence of codified law requires court to hear both sides before it takes a position on the dispute. This may take a few hearings, spread over several months at the interim stages of relief. Delayed interim relief leads to huge losses for a party whose trade secret has been misappropriated. In some cases, this could mean a complete escape of a trade secret, which is to say that it may escape into the public domain and impossible to retrieve. The only relief then would be quantification of damages, which may not be adequate remedy.
- Various practical difficulties under Sections 73 and 74 of the Contract Act.
- It may be noted that remedies that are available under the IPC and IT Act may, at times, overlap, leading to multiplicity of proceedings, procedural delays, and ineffective prosecution.
- Further, the IPC does not specifically or adequately punish an act that can jeopardize a company with respect to its trade secrets, which can have a debilitating effect on innovation and entrepreneurial fervour.
- During an adjudication process, at the stage of evidence or cross examination, secrecy of information is often compromised due to leakage of confidential information/trade secrets. The creation of “confidentiality clubs” by the Hon’ble Delhi High Court, while being an innovative way of dealing with this problem, is restricted to commercial suits and does not apply to criminal trials.

There is, therefore, a gap in protecting corporate and individual intellectual capital. This is not beneficial to Indian interests as it must be acknowledged that India is a massive engine that generates Intellectual Capital. India cannot be viewed as a beneficiary of imported Intellectual Capital and so, should not think about this law defensively.

Legislation On Trade Secrets – The Need Of The Hour

The Parliamentary Standing Committee on Commerce in its 161st

Report on ‘Review of the Intellectual Property Rights Regime in India’ presented / laid before the Rajya Sabha and Lok Sabha on July 23, 2021, noted that the current framework of protecting trade secrets suffers from lack of clarity on several aspects.

The need for specific legislation on trade secrets is of contemporary relevance. It would be relevant to remember that when the world was struck by COVID 19 pandemic and most global powers (including India) were in the race to discover a vaccine against the deadly coronavirus, US, UK, and Canada had accused Russia of targeting British Labs that were conducting COVID-19 vaccine research through a hacking group called APT29 to steal valuable intellectual property. The UK’s National Cyber Security Centre expressed its certainty that the APT29 was a part of the Russian Intelligence Services, however, was unable to provide any resolution. As India prepares itself to become a global leader in research and development and innovation across sectors, it must also devise institutional capabilities to promote, sustain and protect such innovation from domestic as well as international bad actors. With the alarming increase in instances of industrial/ economic espionage in recent years, lack of clear national policy to holistically address the problem requires consideration so that technological innovation and economic growth is not hampered.

From an industrial perspective, the following are the significant reasons as to why there is an immediate need to have a *sui-generis* legislation to protect trade secrets in India:

- **Trade Concerns:** The absence of such legislation might raise concerns among foreign investors and trading partners about the security of their investments and IP in India. This could potentially deter foreign direct investment and hinder international trade relationships.
- **Undermining Innovation & Research:** Lack of legal resources against economic espionage can stifle innovation and research efforts. Companies may be less inclined to invest in R&D if they believe their efforts can easily be stolen without consequences.
- **Competitive Disadvantage:** In the event, sensitive data/trade secrets leakages are not regulated, Indian companies might



face competitive disadvantage at a global level.

- **Stifle Economic Growth:** In the long run, economic espionage can impede economic growth as it discourages investment, innovation and development of high value industries. It also results in a shift in the manner of thinking, which is to say that corporates are likely not to invest in value addition if it can be misappropriated without any consequences to the offenders. This lack of redressal will give rise to non-value-added business models.
- **Hub for Perpetrators:** Without specific legislation and mechanism in place, perpetrators of economic espionage from all over the world can make India a sanctuary for such offences.

The question here should be whether such a law would be welcomed by industry. And to that, the answer would unequivocally be yes. At present the knowledge that a law is in effect is not something that is uniformly pervasive in the industry and the individual. The fungibility of know-how is something that is known by corporates across sectors of industry. To the extent that there is knowledge that their trade secrets are protected currently under equity but not codified law and so is vulnerable, remains a cause of concern. By that token, a code that deters would be welcomed in India. It also prevents the Indian territory from becoming a hub of perpetrators who take sanctuary. Further, advocates who work in the field have regularly advised foreign corporates on the position of the law of trade secrets' protection. Many a times in trade secret sensitive industrial operations, foreign corporates have chosen to onshore only those processes that they do not consider vulnerable to trade secret misappropriation. Moreover, there are incidences where trade secrets obtained elsewhere have been sought to be deployed in India. Also, Indian corporates have often allowed deeds of misappropriation to go unredressed as the cost of litigation could not be justified on account of underdeveloped case law on the point which leads to litigation uncertainties. All of such incidences are not as remote as may be imagined. That a need is felt also becomes apparent in situations where almost all contracts that have aspects of trade secrets in the deal have

confidentiality obligations and non-compete clauses. Focus on laws targeting economic espionage in major world economies like the US and UK should be a strong push for India to come up with such a legislation. India should not give up its positioning as a fast-growing major economy in the world that conducts business in line with acceptable international standards. Also importantly, India should adopt best practice to create an environment that encourages generation, and onshoring of production, technologies, and investments. There is also a moral and ethical justification to the law. It is that one who makes no effort to add value to his environment should not be allowed to steal from those who have made an effort to that end.

Trends In Respect Of Trade Secrets

ASSOCHAM is an industry body of thought leaders. It is well acknowledged for finding solutions benefiting the Indian industrial environment. Members of ASSOCHAM who are business advisors and advocates have advised and represented hundreds of clients. The following is obtained from the feedback that has been collected by the ASSOCHAM from its members:

- FDI: Protection of Trade Secret is one of the most important issues that occupy the minds of multinational corporates. It is one of the main issues in off shoring high value 'unprotected' intellectual properties to India. It is undeniable that absence of codified law does have a chilling effect on onshoring new technologies and processes.
- Startups, SMEs and MSMEs remain most anxious about their non-statutory Ips being vulnerable. It is their Intellectual Capital that stands to be monetized. They, of all, need a legal framework that protects their Intellectual Capital.
- In certain industries Trade Secrets can prove to be far more valuable than their patents: chemical, bio-chemical, software, food and beverages, materials, vaccines, steel, fin-tech, nuclear and solar (to name a few).
- The general proposition is that any product or service, the public access of which (including by way reverse engineering) does not belie its underlying processes, systems, choices, and materials, would be the beneficiary of an articulated trade



secret law. This means that in one aspect or another, virtually all industries, and all players in them, would have some part or the other in the practice of their trade, something that would be a trade secret. Broad as it is, it should be taken as an axiom.

- With a codified law it is expected that there would be greater confidence in onshoring high value Trade Secrets by multinationals. There would be a collateral benefit to the domestic industry as well by way lateral movement of talent who may, without offending previous employers trade secrets will carry with them a learning of the processes of value generation.

Impact of a Trade Secret Legislation

A legislation on trade secrets should potentially have an impact on startups and MSMEs in India, including those that rely on data and AI technologies. This is for the reason that these business lines stand to benefit from a legislation of this nature the most, as these businesses have their own intellectual property to rely on, which is often hinged on ideation and implementation. Furthermore, unlike patent law, which does not require intention to infringe in order to incur liability, trade secret law is premised on the fact that there has been a misappropriation. These principles hold true for all businesses which are driven by data and technology.

Countours of a Proposed Legislation

For a country like India, the law should be a *sui generis* system, which is addition to and not in derogation of the existing legal framework. The following facets can be borrowed from the existing international regimes:

- In order to cater to the civil as well criminal aspect, the legislation should aim at enacting a law which prescribes for criminal penalties for trade secret violation and economic espionage on one hand and provides sufficient protection to trade secrets. The statute must also adequately deal with the amount of damages for the aggrieved as well as other reliefs such as injunction, etc. The existing state and federal legislation of the USA on Uniform Trade Secrets Act, 1985 ('USTA') and Economic Espionage Act in 1996 respectively,

complement each other to a large extent and provide for both civil and criminal actions. The law in the USA can prove to be a good guide for the enactment of such law in India as it touches upon factors such as the definition of trade secrets, wider relief, and criminal penalties.

- The objective of UK's Trade Secrets Regulation of 2018 was to reconcile the definitions of 'trade secret' with internationally binding standards and provide for different forms of misappropriations. What can be borrowed from the Regulation is the provision for 'time limit for bringing proceedings'. Setting time limits for filing charges or lawsuits related to economic espionage would provide legal certainty and prevent undue delay.
- The laws of one of the jurisdictions may be taken as the model law, which could be tailored as per the specific needs of India. The National Innovation Act of 2008 and the US model could be examined for this purpose. We make this proposition because the US law:
 - covers most of the relevant aspects;
 - sets contours clearly and in a wide manner for the various parameters, which appear to be conducive to the Indian market;
 - is a preferable destination to reside trade secrets for corporates;
 - strikes a good balance between clearly defined principles and yet allowing for the law to grow through judicial interpretation in fact situations; and
 - the draft of the National Innovation Act of 2008 in many fundamental ways runs parallel to the US law.

However, with respect to the adoption of the US law as a reference point, it may be kept in mind that the penalties prescribed by the US law have, in many cases, proven to be insufficient in dissuading acts of economic espionage. The allure of substantial financial gains through the misappropriation of trade secrets continues to incentivize these unlawful activities. While imposing significant fines is one possible consequence, it often falls short of deterring wealthy wrongdoers, including foreign governments or their



patrons. Therefore, simply amending fines and penalties may not offer a comprehensive solution. For instance, the statute has undergone amendments to raise the maximum fines, increasing them from \$500,000 to \$5 million in the case of an individual and from \$10 million to a maximum of the greater of \$10 million or three times the value of the stolen trade secret¹⁵. Learning from the above, it would be best for the complainant to demonstrate loss, which may be redressed by courts.

Further, with respect to trade secrets, the concept of 'ownership' as laid down in the US law would have to be considered. The nature of an 'owner' is to be established.

A further distinction that ought to be considered is that when private parties are involved in an adjudication, only civil liabilities be cast upon the defaulter, and such proceedings can be conducted in commercial courts. However, where both parties are public / governmental authorities (or if one party is government) economic espionage ought to be adjudicated in a criminal court, following the Code of Criminal Procedure, 1973.

¹⁵ Foreign and Economic Espionage Penalty Enhancement Act of 2012, 2013

About SAM & Co.

Shardul Amarchand Mangaldas & Co., founded on a century of legal achievements, is one of India's leading full-service law Firms. The Firm's mission is to enable business by providing solutions as trusted advisers through excellence, responsiveness, innovation and collaboration.

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The Firm has a pan-India presence and has been at the helm of major headline transactions and litigations in all sectors, besides advising major multinational corporates on their entry into the Indian market and their business strategy. Currently, the Firm has over 820 lawyers, including 166 Partners, offering legal services through its offices at New Delhi, Mumbai, Gurugram, Ahmedabad, Kolkata, Bengaluru, and Chennai.

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About ASSOCHAM

The Knowledge Architect of Corporate India

The Associated Chambers of Commerce & Industry of India (ASSOCHAM) is the country's oldest apex chamber. It brings in actionable insights to strengthen the Indian ecosystem, leveraging its network of more than 4,50,000 members, of which MSMEs represent a large segment. With a strong presence in states, and key cities globally, ASSOCHAM also has more than 400 associations, federations and regional chambers in its fold.

Aligned with the vision of creating a New India, ASSOCHAM works as a conduit between the industry and the Government. The Chamber is an agile and forward looking institution, leading various initiatives to enhance the global competitiveness of the Indian industry, while strengthening the domestic ecosystem.

With more than 100 national and regional sector councils, ASSOCHAM is an impactful representative of the Indian industry. These Councils are led by well-known industry leaders, academicians, economists and independent professionals. The Chamber focuses on aligning critical needs and interests of the industry with the growth aspirations of the nation.

ASSOCHAM is driving four strategic priorities - Sustainability, Empowerment, Entrepreneurship and Digitisation. The Chamber believes that affirmative action in these areas would help drive an inclusive and sustainable socio-economic growth for the country.

ASSOCHAM is working hand in hand with the government, regulators and national and international think tanks to contribute to the policy making process and share vital feedback on implementation of decisions of far-reaching consequences. In line with its focus on being future-ready, the Chamber is building a strong network of knowledge architects. Thus, ASSOCHAM is all set to redefine the dynamics of growth and development in the technology-driven 'Knowledge-Based Economy'. The Chamber aims to empower stakeholders in the Indian economy by inculcating knowledge that will be the catalyst of growth in the dynamic global environment.

The Chamber also supports civil society through citizenship programmes, to drive inclusive development. ASSOCHAM's member network leads initiatives in various segments such as empowerment, healthcare, education and skilling, hygiene, affirmative action, road safety, livelihood, life skills, sustainability, to name a few.

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