



Rigorous empirical
research on
intellectual property

How trade secrets can impact your business

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Richelle Spiekerman, Project Manager EUIPO

Presenter: Francisco García Valero



This presentation reflects the personal views of the authors and does not, and is not intended to, constitute legal advice.

What do we do?



Non-Profit Activities



High Quality Academic Research



Education



Promotion Innovative SMEs

Free materials on...



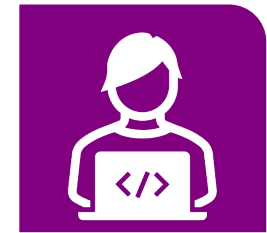
Summaries of papers,
studies, guides and
case law



Interactive graphics



Interviews
to inspire SMEs



Webinars

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For SMEs:

4 ESSENTIALS OF TRADE SECRETS

- 1 - FIND OUT IF YOU HAVE SOMETHING WORTH KEEPING AS A TRADE SECRET
- 2 - WORK OUT WHAT YOU CAN DO TO PROTECT YOUR TRADE SECRET
- 3 - CONSIDER HOW YOUR TRADE SECRET MIGHT BE EXPOSED
- 4 - A TRADE SECRET'S STRATEGIC VALUE

Explore the benefits of Trade Secrets with our [interactive guide](#).

4 REASONS TO PATENT

- 1 - MARKET ACCESS
- 2 - NEGOTIATING
- 3 - FUNDING
- 4 - STRATEGIC VALUE

Explore how patents add value with our [interactive guide](#).

4 REASONS 4 COPYRIGHT

- 1 - COMPETITIVE EDGE

4 REASONS 4 TRADEMARKS

- 1 - DIFFERENTIATION
- 2 - PROTECTION
- 3 - REPUTATION

How do I use intellectual property to grow my business?

What do you need?

DESIGNS	TRADEMARKS	TRADE SECRETS
<p>What is a design?</p> <p>A new and original visual appearance of a product.</p> <p>See also more more</p>	<p>What is a trademark?</p> <p>Distinctive signs that identify brands of products/services.</p> <p>See also more more</p>	<p>What is a trade secret?</p> <p>Any type of useful information for business that is secret and kept confidential.</p> <p>See also more more</p>
<p>What can be protected?</p> <p>Shapes, patterns, lines, colors, textures, sounds, smells, tastes, feelings, and more.</p> <p>See also more more</p>	<p>What can be protected?</p> <p>Words, personal names, designs, logos, symbols, slogans, sounds, and more.</p> <p>See also more more</p>	<p>What can be protected?</p> <p>Any confidential information for business that is secret and kept confidential.</p> <p>See also more more</p>
<p>How long is my innovation protected?</p> <p>Up to 25 years.</p> <p>See also more more</p>	<p>How long is my innovation protected?</p> <p>Up to 10 years after death (depending on the country).</p> <p>See also more more</p>	<p>How long is my innovation protected?</p> <p>Indefinitely, provided it is not revealed.</p> <p>See also more more</p>
<p>Do I have to register it?</p> <p>Yes, filing an application to a patent office is required.</p> <p>See also more more</p>	<p>Do I have to register it?</p> <p>Yes, but it is highly advisable to register your trademark.</p> <p>See also more more</p>	<p>Do I have to register it?</p> <p>No, but it is highly advisable to register your trade secret.</p> <p>See also more more</p>

European Court Decisions:



Case Law post CJEU ruling *Huawei v ZTE*

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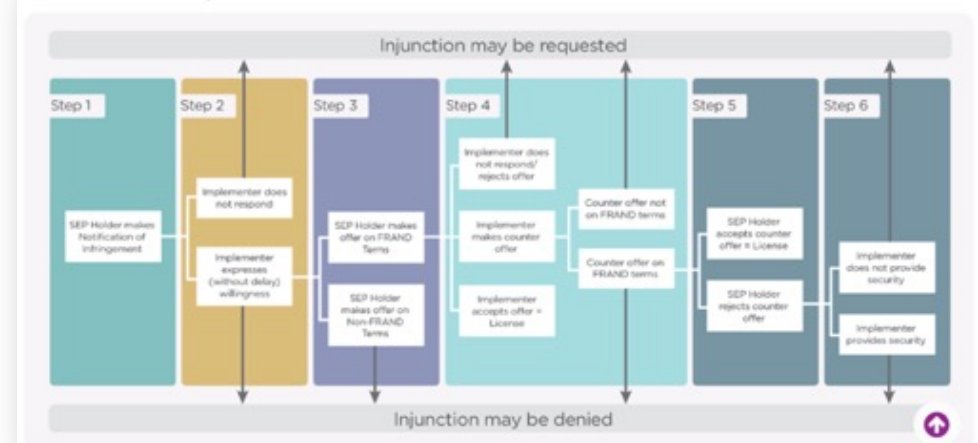
National Courts Guidance

Negotiating Licenses for Essential Patents in Europe

Increased clarity provided on the principles established by the Court of Justice of the European Union in *Huawei v ZTE*.

The Court of Justice of the European Union clarified, in *Huawei v ZTE* (Case No. C-170/13), European law relating to the availability of injunctive relief for infringements of FRAND-based standard essential patents. In doing so, the Court provided a legal framework focused on the good faith conduct to be expected of both parties. Since

Huawei v ZTE process





Ideas Powered for business

Richelle Spiekerman, EUIPO



Only **9%**
of European SMEs
own IPRs... **but** those that do have
+68%
higher revenue
per employee than
those that do not*

*controlling for all relevant factors such as size, sector or country

Intellectual property rights and firm performance in the European Union
Firm-level analysis report, February 2021

[Link](#) to study

IDEAS POWERED FOR BUSINESS NETWORK



EUIPO INITIATIVES TO SUPPORT SMEs

1 GET ADVICE

Free personalised consultation on intellectual property

Do you know what intellectual property you should register?

Get a one-to-one consultation from an intellectual property expert that speaks your language.

Sign up now!



2 GET FINANCIAL SUPPORT



SME fund

EU funding for your intellectual property

Trade marks - Patents - Designs

For more information visit
the SME Fund page

Small and medium-sized businesses with registered intellectual property rights have per employee:

68% more
revenue

*EPO-EUIPO 'IP rights and firm performance' (2021)

3 GET REGISTERED

Easy Filing
Register your trade mark

With our fast-track registration service, you can register your trade mark in all 27 EU countries.

Register now!

Ask Camila!

Our virtual assistant will guide you step by step through the entire process.



SME fund

Protect
your Intellectual
Property Rights
SAVE UP TO
€2,250



Thank you!

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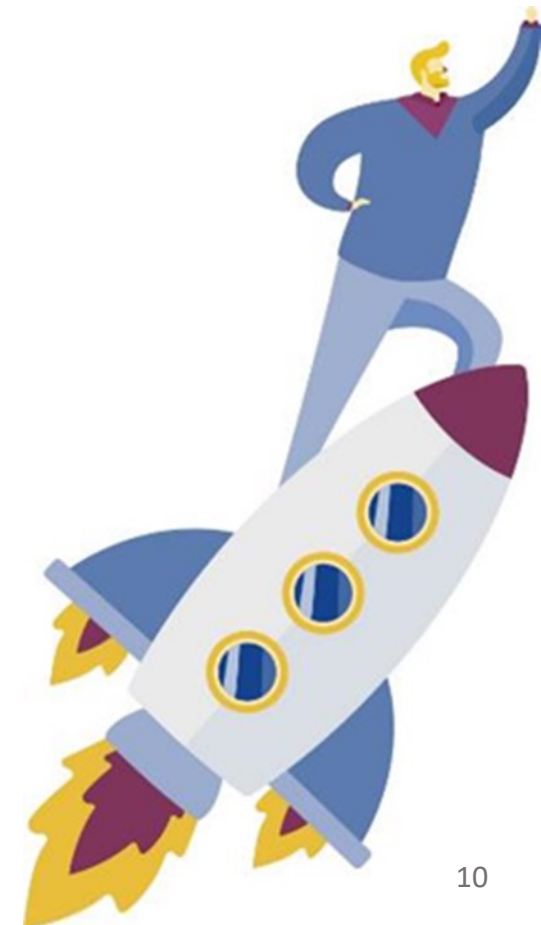
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Joint EUIPO/4iP Council Webinar & Q&A: How trade secrets can impact your business



Francisco Garcia-Valero

Computer Science Graduate, Economist and Master of European Judicial Studies. He worked at Eurostat and in EUIPO in several positions. He currently works at the Chief Economists Service in the European Observatory on Infringements of Intellectual Property Rights where he is the author of some studies related on many different types of IP including trade secrets.

4 ESSENTIALS OF TRADE SECRETS



1 - FIND OUT IF YOU HAVE SOMETHING WORTH KEEPING AS A TRADE SECRET



2 - WORK OUT WHAT YOU CAN DO TO PROTECT YOUR TRADE SECRET



3 - CONSIDER HOW YOUR TRADE SECRET MIGHT BE EXPOSED



4 - A TRADE SECRET'S STRATEGIC VALUE

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1 – FIND OUT IF YOU HAVE SOMETHING WORTH KEEPING AS A TRADE SECRET

You can protect things like algorithms, R&D information, recipes, methods, formulas, marketing plans, clients list, manufacturing or repair processes or data compilations as trade secrets



Trade secrets shouldn't be widely known or discoverable. And they should have commercial value for being secret

The duration of Trade Secret protection is (potentially) unlimited. It contrasts with the limited duration of other IPRs that protect know-how

The owner of a trade secret must be in control of keeping it secret





2 – WORK OUT WHAT YOU CAN DO TO PROTECT YOUR TRADE SECRET

First, identify your trade secret

Make sure access to confidential information is on a need-to-know basis

Get things like non-disclosure agreements (NDAs) or restrictive covenants in place

Protecting a trade secret is the holder's responsibility. There's no official register

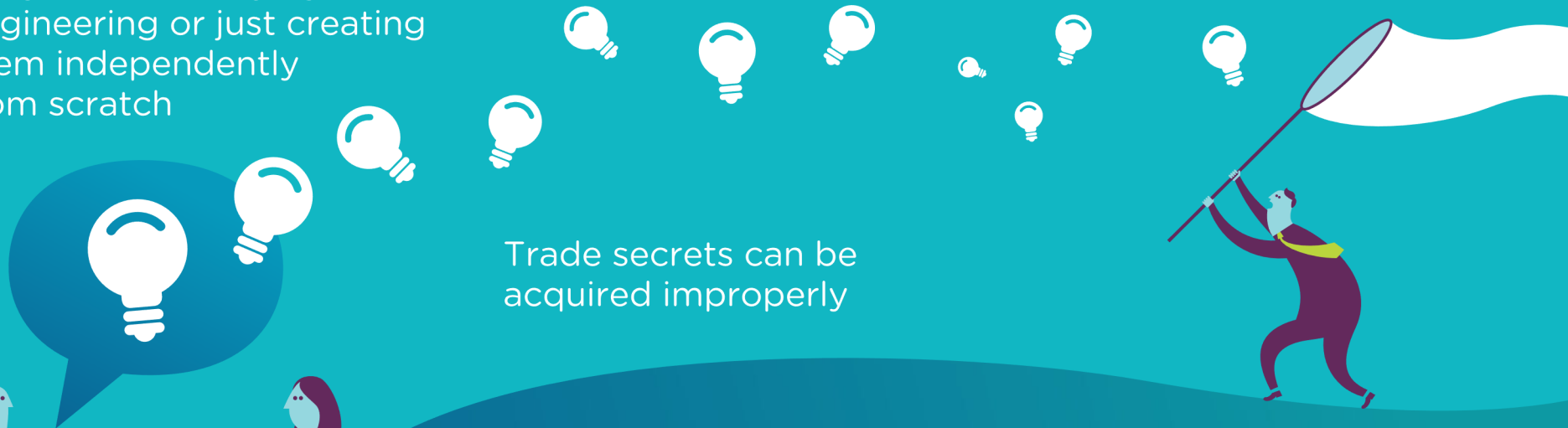
Trade secret holders are protected across the EU against four unlawful acts: the acquisition, use or disclosure of trade secrets without the consent of the trade secret holder and indirect infringement





3 - CONSIDER HOW YOUR TRADE SECRET MIGHT BE EXPOSED

Trade secrets can be discovered fairly and honestly by reverse engineering or just creating them independently from scratch



Trade secrets can be acquired improperly



Secrecy is often part of a good strategy when it comes to protecting services (rather than physical products), innovation processes, or in markets with a strong price competition

Trade secrets can often be disclosed or reverse engineered, so they should be used with caution



4 – A TRADE SECRET'S STRATEGIC VALUE

Improve your competitive advantage

Use both trade secrets and Intellectual Property (IP) rights to protect your business

Trade secrets can be commercialised directly by their holders, or through an assignment or business partnerships

Attracting venture capitalists and other funding can be challenging

Combination of trade secrets with other IP rights can greatly improve the strategic value to attract investors



Thank You!

Q&A

Forthcoming Webinars:

Date	Title	Summary
15th September, 16h (CET)	CRISPR Processes Patents in Green Biotechnology: the Benefits of Patent Pools and Clearing Houses	The current CRISPR patent landscape presents a variety of barriers to research, innovation and profit. In order to overcome the difficulties created by the overall presence of patents, patent pools and clearing houses are the two alternative licensing models attracting most interest. The aim of this webinar is to examine the potential use of IP of the licensing platforms to mitigate some of these roadblocks. Presented by Dr Agnes Ricroch.

