



# Balancing Industrial Design Rights and Trade Secrets in Different Legal Frameworks

Eslam Denoncourt\*

Department of Law, University of Ottawa, Ottawa, ON K1H 8M5, Canada

## DESCRIPTION

Industrial design rights and trade secrets are two essential tools for protecting Intellectual Property (IP) in today's innovation-driven economy. Industrial design rights safeguard the aesthetic or visual elements of a product, such as its shape, color and surface patterns, while trade secrets protect confidential business information that gives a competitive edge. While both mechanisms serve unique purposes, balancing their use within varying legal frameworks poses significant challenges, as each jurisdiction offers different protections, limitations and enforcement mechanisms. Understanding how these systems complement or conflict with each other is vital for businesses navigating the global market.

Industrial design rights primarily focus on protecting the ornamental features of a product, which are often critical in industries like fashion, consumer electronics and automotive manufacturing. These rights are generally obtained through a formal registration process with government authorities, such as the United States Patent and Trademark Office (USPTO), the European Union Intellectual Property Office (EUIPO), or similar national agencies. Registration grants the owner exclusive rights to use, license, or sell the design for a defined period, typically ranging from 10 to 25 years, depending on the jurisdiction. While these rights provide robust protection against unauthorized copying or imitation, the requirement for public disclosure during the registration process can lead to potential risks, as it exposes the design to competitors.

In contrast, trade secrets do not require formal registration but instead rely on confidentiality. Trade secrets encompass a broad range of proprietary information, including manufacturing processes, product formulas and business strategies. Unlike industrial design rights, trade secrets can remain protected indefinitely, as long as the owner takes reasonable steps to maintain their secrecy. However, they come with a significant vulnerability: if a competitor independently discovers or reverse-engineers the secret, no legal action can be taken. The reliance

on confidentiality also makes enforcement of trade secret misappropriation complex, especially in jurisdictions where legal frameworks are underdeveloped or inconsistent.

Balancing these two forms of IP protection involves weighing the benefits of public disclosure against the need for confidentiality. For instance, companies often face a strategic decision: whether to register a design and make it publicly known or to protect it as a trade secret and keep it confidential. This decision can vary based on the jurisdiction. In the European Union, for example, the Community Design Regulation offers both registered and unregistered design protections, allowing businesses to choose the level of public disclosure. In contrast, jurisdictions like the United States emphasize trade secret protection under laws such as the Defend Trade Secrets Act (DTSA), which provides federal remedies for misappropriation.

Global businesses often encounter challenges when operating in multiple jurisdictions with differing legal frameworks. In some countries, like Germany or Japan, strong protections for industrial designs are complemented by robust trade secret laws, creating a balanced system. Conversely, in developing nations, weak enforcement mechanisms for trade secrets can leave businesses vulnerable to theft or misappropriation. This disparity highlights the importance of tailoring IP strategies to align with local laws and international treaties, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Ultimately, balancing industrial design rights and trade secrets requires careful consideration of legal, commercial and strategic factors. Companies must evaluate the nature of their innovation, the competitive landscape and the level of protection offered by local and international legal frameworks. By understanding the interplay between public disclosure and confidentiality, businesses can optimize their IP strategies to safeguard their innovations effectively while navigating the complexities of a global market.

**Correspondence to:** Eslam Denoncourt, Department of Law, University of Ottawa, Ottawa, ON K1H 8M5, Canada, E-mail: eslam@denoncourt.com

**Received:** 01-Jun-2024, Manuscript No. IPR-25-28413; **Editor assigned:** 04-Jun-2024, Pre QC No. IPR-25-28413 (PQ); **Reviewed:** 18-Jun-2024, QC No. IPR-25-28413; **Revised:** 24-Jun-2024, Manuscript No. IPR-25-28413 (R); **Published:** 02-Jul-2024, DOI: 10.35248/2375-4516.24.12.261

**Citation:** Denoncourt E (2024). Balancing Industrial Design Rights and Trade Secrets in Different Legal Frameworks. Intel Prop Rights. 12:261.

**Copyright:** © 2024 Denoncourt E. This is an open access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution and reproduction in any medium, provided the original author and source are credited.