



Trade Secrets vs. Industrial Design Rights: A Comparative Legal Analysis

Jiacheng Wang*

Department of Industrial Engineering, University of Northern Sumatra, Medan, Indonesia

DESCRIPTION

Trade secrets and industrial design rights are two distinct but equally important forms of Intellectual Property (IP) protection that cater to different aspects of innovation. While industrial design rights protect the visual and aesthetic appeal of a product, trade secrets safeguard confidential business information that provides a competitive edge. Both mechanisms serve as critical tools for businesses to secure their intellectual assets, but they differ significantly in their scope, requirements, duration and enforcement mechanisms. A comparative legal analysis of these two IP strategies highlights their strengths, limitations and practical applications across different jurisdictions.

Industrial design rights focus on the external appearance of a product, including its shape, configuration, pattern, or ornamentation. These rights are especially valuable in industries where visual appeal significantly influences consumer behavior, such as fashion, automotive and consumer electronics. To obtain industrial design protection, creators typically need to register their designs with an authorized government body, such as the United States Patent and Trademark Office (USPTO) or the European Union Intellectual Property Office (EUIPO). Registration grants exclusive rights to the owner for a fixed period, usually ranging from 10 to 25 years, depending on the jurisdiction. During this time, the design is protected against unauthorized use, reproduction, or imitation by third parties.

A key feature of industrial design rights is the requirement for public disclosure. To obtain protection, the design must be described and made publicly available as part of the registration process. This transparency helps establish the uniqueness of the design and ensures that it meets the criteria for protection. However, public disclosure also has drawbacks, as it exposes the design to competitors and risks unauthorized use in jurisdictions where enforcement mechanisms may be weak.

Trade secrets, on the other hand, protect confidential information that provides a business advantage, such as formulas, processes, customer lists, or business strategies. Unlike

industrial design rights, trade secrets do not require registration or public disclosure. Instead, protection hinges on the owner's ability to maintain the secrecy of the information. Legal frameworks for trade secrets, such as the Defend Trade Secrets Act (DTSA) in the United States or the EU Trade Secrets Directive, provide remedies for the misappropriation of confidential information, including injunctions and damages.

One of the significant advantages of trade secrets is their potentially indefinite duration. As long as the information remains secret and reasonable measures are taken to protect it, the owner can maintain exclusive control. However, trade secrets are inherently vulnerable to reverse engineering, independent discovery, or accidental disclosure, all of which can nullify their protection. Additionally, enforcement of trade secret misappropriation can be challenging, particularly in jurisdictions with limited legal infrastructure or weak IP enforcement.

The choice between industrial design rights and trade secrets often depends on the nature of the intellectual property and the strategic goals of the business. For example, companies in the fashion industry may prioritize industrial design registration to prevent competitors from copying their designs, as aesthetics play a central role in their market appeal. Conversely, businesses in the technology or pharmaceutical sectors may rely on trade secrets to protect proprietary formulas or manufacturing processes that are difficult to replicate.

A comparative analysis of legal frameworks across jurisdictions reveals significant variations in the treatment of industrial design rights and trade secrets. In the European Union, for instance, the Community Design Regulation provides both registered and unregistered design protection, giving businesses flexibility in choosing the level of public disclosure. Registered designs offer long-term protection, while unregistered designs provide shorter-term protection against direct copying. In the United States, industrial design protection is limited to registered designs under design patent law, while trade secrets enjoy robust protection under the DTSA.

Correspondence to: Jiacheng Wang, Department of Industrial Engineering, University of Northern Sumatra, Medan, Indonesia, E-mail: jiacheng@wang.com

Received: 01-Jun-2024, Manuscript No. IPR-25-28417; **Editor assigned:** 04-Jun-2024, Pre QC No. IPR-25-28417 (PQ); **Reviewed:** 18-Jun-2024, QC No. IPR-25-28417; **Revised:** 24-Jun-2024, Manuscript No. IPR-25-28417 (R); **Published:** 02-Jul-2024, DOI: 10.35248/2375-4516.24.12.258

Citation: Wang J (2024). Trade Secrets vs. Industrial Design Rights: A Comparative Legal Analysis. *Intel Prop Rights*. 12:258.

Copyright: © 2024 Wang J. 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.