



Invention & Industry

Trade Secret Gaining and Losing Protection

Eric E. Johnson

ericejohnson.com



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Trade Secret - Gaining and Losing Protection

Two requirements:

- Must be actually secret.
- Must be the subject of reasonable efforts to maintain secrecy.

Must be an actual secret:

- Secret means "secret" in the ordinary sense.
- Two or even more independent parties can have the same secret.
- If a trade secret becomes generally known, it stops being a protectable trade secret.
 - Trade secret status can be lost by wrongful means
 - E.g., someone steals the secret and publishes it.
 - or non-wrongful means.
 - E.g., disclosure by mistake, or everyone else eventually figures it out independently.

Must be the subject of reasonable efforts to maintain secrecy

- What's reasonable depends on the circumstances and how valuable the secret is.
- Might include:
 - Locks, fences, security guards, password protection, firewalls
 - Limiting the number of people who know
 - Splitting up knowledge among different people
 - Employee contracts, non-disclosure agreements, non-compete agreements

Problems to look at:

- "Leaving the barn door open" on p. 516.
- "Sticky situation" on p. 516-517.