

Bird & Bird

One firm.
Your firm.

Trade Secrets

What you need to know





Introduction

In today's economy, intellectual property, data and knowhow are among a company's most precious assets. Confidential business information, including trade secrets, are integral to those assets. Secret knowledge, datasets, processes, market intelligence, recipes, algorithms, business models, marketing strategies, client lists, business agreements, to name just a few examples, may add major value to your company and be eligible for protection.

Businesses should be pro-active in identifying and securing those assets. Protection of trade secret or confidential information has never been more important than it is today. Digitalisation and a more mobile workforce has meant that security incidents can cause significant damage in a short period of time. There is a compelling need to properly protect trade secrets, by identifying the assets, educating staff, anticipating the threat and setting up effective incident management. Increasingly regulated and competitive markets, particularly in the digital space, give further incentive for a proper trade secret regime in any business.

At Bird & Bird we support our clients in all aspects of the protection of trade secrets. We work with our clients through the lifecycle of their confidential information. From identifying and auditing trade secrets a business might have to the actual implementation of effective organisational protection mechanisms and policies for managing those assets. We help clients to identify risk and achieve successful enforcement of these valuable rights when necessary.

Through our extensive experience across numerous sectors, we provide advice that is practical and useful, recognising the tensions between protection and innovation. Our trade secrets experts draw from years of litigation and transactional experience. We devise and implement enforcement strategies that allow our clients to respond quickly, and on a global scale.

We believe Bird & Bird is unique in offering such all-encompassing trade secrets protection on an international scale. From our network of over 30 offices worldwide (and many more in our best friends' network), and along with our carefully curated third party partnerships, including OXYGY, you can count on our expert teams to work together as a single, cohesive unit across legal disciplines. This is all aimed at one thing: protecting your valuable assets, your reputation and your edge.

At Bird & Bird, we are with you, every step of the way. **One firm. Your firm.**

[Click here](#) to access our Trade Secrets webpage

International Co-Heads



Domien Op de Beeck

Partner

domien.op.de.beeck@twobirds.com

Intellectual Property
Brussels, Belgium



Tom Vapaavuori

Partner

tom.vapaavuori@twobirds.com

Dispute Resolution
Helsinki, Finland



Why should trade secrets be a company's priority



Current market realities

The economy is globalised, characterised by short-term collaborations, more outsourcing, digitalisation, and information sharing. Companies are increasingly deploying data processing tools or AI into their day-to-day work. Markets operate at a pace and scale that does not always allow the law to keep up. This comes with risks and opportunities, not in the least with respect to the protection of valuable business data and confidential information.

Remote working and employee mobility

While working-from-home is not a novel concept, the fact that countless businesses have made the transition to such new reality poses significant challenges. Businesses need data accessible from any location, while trusting their employees and systems to comply with protection mechanisms.

Employee activity

No one has more access to your confidential information than your employees. It is essential that at the time of employee onboarding and during employment, you have the right systems in place to ensure access to information is limited and employees know what steps to take to protect information. When the employment comes to an end, companies should have effective exit procedures in order to protect their trade secrets, particularly if its workforce will typically be moving to a competitor

Reputation

A breach or misappropriation of trade secrets may cause significant damage to reputation, affect key partnerships and contaminate data and product development. In that regard, companies are seeking greater contractual and practical commitments from their partners.

Remedies and enforcement

Better enforcement tools through legislative intervention allow companies to take action when their trade secrets are misappropriated. Companies can seek damages, injunctive relief or even a recall of products from the market. Further, companies misusing third party trade secrets may find their own data is contaminated meaning that the withdrawal of infringing products from market and the future "clean" development of their own products could be difficult and costly.

Cyberattacks

These are a common and increasing threat to business continuity. Effective cybersecurity is a must-have, and companies should take measures to comply with the increasingly demanding legal framework, devise appropriate cybersecurity policies and provide rapid response in case of an incident or data breach.

Regulatory obligations and compliance

Legislators, in particular in Europe, have shifted their attention from governing the use of personal data to governing the use of non-personal data, imposing data sharing obligations. There is now a real tension between the desire to unlock and utilise the value of data sets, and the ambition to see trade secrets protected.

Tax implications

Tax authorities are showing an increasing interest in the valuation of intangible assets. Trade secrets can be the subject of various tax laws at the time of transfer or disposal. Further, in some jurisdictions, "patent box" tax regimes allow trade secrets as qualifying IP.



Intellectual Property (IP)

Trade secrets can be one of the most important assets in any business' IP portfolio, yet protection requires a holistic approach across multiple different organisational systems and discipline areas.

Supercharged with scientific and technical backgrounds, our IP experts are able to advise businesses across a number of sectors identify their intangible assets and identifying the best possible mode of protection. With decades of experience in complex multi-rights cases on technical subject matter, our litigation teams are leading experts in their field. Our transactional teams advise on how to monetise these assets, whether by partnerships, valuations, sales or tax planning.



Christine Yiu

Partner

christine.yiu@twobirds.com

Intellectual Property
San Francisco, United States of America



“Bird & Bird has a team of top-notch litigators across our offices with experience of winning trade secret cases. We draw on a team of lawyers with technical background, employment law expertise, and investigative mindset to find the right solution for you.”





Employment and human resources (HR)

Losing staff, clients and customers, or valuable confidential information can all be very damaging; and the potential economic cost and lost management time of reacting to a contentious situation after such a breach has occurred can be very high. At Bird & Bird we believe organisations are better placed if they take proactive steps to protect their business' trade secrets, guard against employee breach and avoid disputes where possible.

Our employment teams regularly assist in-house counsel and HR departments on a variety of practical steps to protect their business interests including robust employment contracts, policies, and procedures; effective training, communication, and monitoring; and clear offboarding procedures. And when a problem does occur, we will enforce or defend your rights decisively with effective strategies to limit or control any potential damage and/or continued threat. We can also guide you through the issues involved in forensic and regulatory investigations, surveillance and the tactics and realities of Court action.



Tim Spillane

Partner

tim.spillane@twobirds.com

International HR Services
London, United Kingdom

“The pandemic and continued digital transformation have driven organisations worldwide to adapt to new ways of working and it is more important than ever that employers consider how best to protect their workforce and business from competitive threats.”





Contracts

Trade secrets can play a major role in a wealth of different contractual arrangements, from manufacturing agreements, collaborations and drug trials to IT projects and defence work. Further, trade secrets can be monetised by assignment or licence in the same way many other assets are.

Due to the special nature of trade secrets, contractual framework that surrounds and safeguards them is vital, for instance through non-disclosure agreements or other confidentiality arrangements. Bird & Bird has always focused on helping organisations that are changed by technology and the digital world.

Our commercial team is highly experienced in dealing with the contractual complexities of the proper protection and commercialisation of trade secrets in all Bird & Bird's major sectors.



“The Bird & Bird team are frankly amazing with excellent client service. The lawyers exceed our expectations when helping us navigate tricky waters.”

Chambers UK, 2025





Litigation and arbitration

When a trade secret breach occurs, time is of essence. Further leaks must be prevented, and evidence secured. This may require immediate application for interim remedies, corrective measures and other civil or even criminal proceedings. Such action might be required in multiple jurisdictions at once.

At Bird & Bird, our multi jurisdiction litigation and arbitration expertise means we are uniquely placed to devise effective global enforcement strategies that put you in the best possible position to enforce your rights.



Sophie Eyre

Partner

sophie.eyre@twobirds.com

Dispute Resolution
London, United Kingdom



“At Bird & Bird, we bring unparalleled expertise in safeguarding trade secrets, understanding the unique challenges they present in litigation and arbitration, and delivering tailored strategies to protect our clients' most valuable assets.”



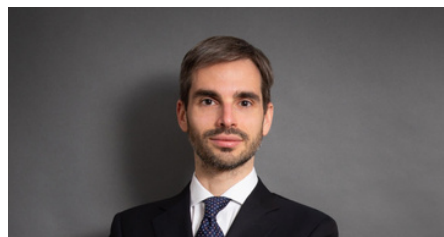


Assistance with audits, compliance, policies and regulations

Drawing from mixed teams of lawyers, patent attorneys and tax advisors, Bird & Bird's auditing service helps ensuring that clients are in the best possible position to protect their assets, either through trade secrets or IP rights, on an international scale.

We go further. To protect and leverage valuable trade secrets, companies need robust trade secrets policies and procedures. We help protect your trade secrets through a framework of legal, technical and operational measures, tailored to your corporate strategy and governance. We ensure that you have a consistent approach to trade secrets, from cybersecurity measures to business processes. By working with our consulting arm OXYGY and leveraging on their change management expertise, we help ensure that your policies and procedures don't stay on paper but are adopted by the entire organisation.

Deploying a proper trade secrets protection framework may dramatically increase the value of the company and its assets, strengthen the position of an organisation facing a legal dispute, or withstand a trade secrets challenge. Investors, buyers and financiers are taking an increasingly keen interest in how trade secrets are protected or can be leveraged.



Edoardo Barbera

Partner

edoardo.barbera@twobirds.com

Intellectual Property
Milan, Italy



“Our international team of lawyers, patent attorneys and tax consultants delivers a unique service to identify trade secrets and best protect them under legal and practical perspectives. The partnership with OXYGY enables us to provide clients with a further layer of tailored consulting solutions.”



Key contacts

Core Trade Secrets team



Domien Op de Beeck

Partner

domien.op.de.beeck@twobirds.com

Brussels, Belgium



Tom Vapaavuori

Partner

tom.vapaavuori@twobirds.com

Helsinki, Finland



Rebecca Currey

Partner

rebecca.currey@twobirds.com

Sydney, Australia



Thierry Lautier

Partner

thierry.lautier@twobirds.com

Paris, France



Christine Yiu

Partner

christine.yiu@twobirds.com

San Francisco, United States of America



Edoardo Barbera

Partner

edoardo.barbera@twobirds.com

Milan, Italy



Mariano Santos

Partner

mariano.santos@twobirds.com

Madrid, Spain



Louise Sargeant

Senior Associate

louise.sargeant@twobirds.com

London, United Kingdom



Sophie Eyre

Partner

sophie.eyre@twobirds.com

London, United Kingdom



Tim Spillane

Partner

tim.spillane@twobirds.com

London, United Kingdom



Moritz Schroeder

Counsel

moritz.schroeder@twobirds.com

Dusseldorf, Germany

Meet the full International
Trade Secrets team

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