

Bird & Bird

# Trade Secrets

Protecting the Future Prosperity  
of your Business

2022



# Keep it secret, keep it safe

## Processes, pricing, commercial & technical know-how

There's a lot of information that makes up your business. Some of it is required by law, some of it is industry standard. However, some of it can be crucial to giving you a competitive edge and misuse of such information can cause significant damage to the success of your organisation.

We call these your Trade Secrets, and we think they're worth protecting.

### An increased threat

The need to be able to identify, locate and monitor business critical information has never been greater. Especially in today's digital world, where data increases on a daily basis and can be disseminated to hundreds of thousands of people all over the world instantaneously.

### Our specialist Trade Secrets service

As one of only a handful of firms to offer a specialist Trade Secrets service, our team is a rare breed. Unlike many of our competitors, we take a highly integrated approach to trade secrets issues, combining skills and expertise from a range of our leading practice specialisms, to provide you with a tailor-made, cohesive team, built to face the challenges presented by each assignment.

Our multi-faceted team approach means we are able to work with you to identify your Trade Secrets and what the threats to them might be. Many of our experts have scientific or engineering qualifications which given them an unrivalled ability to understand the innovations you need to protect. Where the scope of your project extends beyond legal expertise, our consultancy arm **OXYGY** provides complementary support on the process improvement, organisational design and IT components that an effective trade secrets management framework requires.



# Facing the threat

## The threat from within

Whilst threats to the security of your Trade Secrets exist from external sources (cybersecurity, hacking, theft etc.). Most frequently, the highest risk comes from within your organisation, typically involving current or former employees, contractors, or business partners who have had authorised access.

## Building a culture of protection

It is often assumed that threats to Trade Secrets, whether internal or external, take shape for nefarious reasons and personal gain. Whilst that may indeed be the case, threats to their security can present themselves merely through negligence and unintentional action or inaction (lack of training, poor systems, lack of knowledge etc). That's why we believe that in addition to ensuring you have adequate technological systems and IT protection in place, a people-based approach and building a culture of protection should be at the heart of your strategy.



### Employees, contractors and consultants

- Potential leaks of sensitive information during employment/engagement
- Risks of competition and unlawful use of confidential information after termination of employment / engagement



### Clients, providers and business partners

- Access to confidential information and know-how.
- Use and sharing by clients and third parties of knowledge acquired in the context of the commercial relationship.



### Websites and social media, promotional and marketing materials

- Potential disclosure of confidential information and know-how to a wider public.
- Reputational damage



### Intellectual Capital

- Potential vulnerabilities in the protection of your organisation's intellectual property.
- Underutilisation and exploitation of your organisation's Trade Secrets.

# We're with you all the way

## We're serious about future-proofing your business and protecting your data assets

We encounter and advise on the many aspects of trade secrets protection and enforcement on a daily basis, from how to deal with the threats posed by insiders to handling the reputation management fall-out associated with a cyber breach.

### Review and assess

We will work with you to identify your valuable information that needs protection and audit your existing policies, procedures & documentation. We can then assess how and where improvements can be made and identify the key areas for action.

### Improve and protect

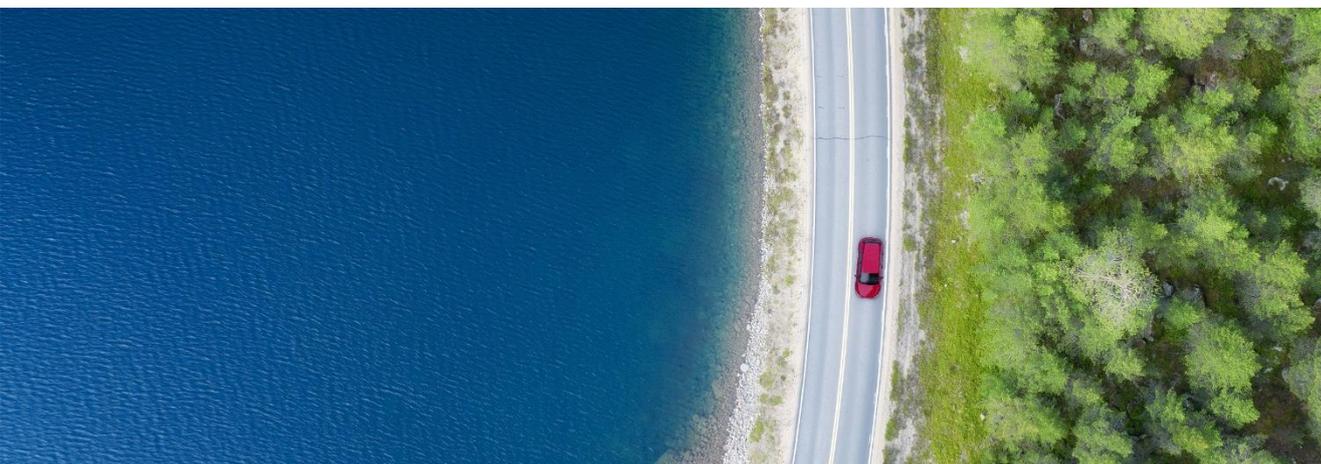
We will formulate the appropriate internal policies, documents and training required to protect your assets, tailored to your needs. We will also offer best practice advice to mitigate the risk of threats, whether from specific circumstances or as part of a more routine compliance project.

### Manage and monitor

We can carry out periodic health-checks of your policies and procedures and ensure that they are kept up to date, and in line with relevant legal and regulatory changes. We can also advise you on the impact of new technologies and working methods and how to modify your approach in the light of them. We can also advise you on the impact of new technologies and working methods and how to modify your approach in the light of them.

### Respond and defend

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 & regulatory investigations, surveillance and the tactics and realities of Court action.



# Thinking differently to future-proof your business

## Helping your business develop an effective trade secrets management framework

When it comes to managing and protecting your trade secrets, we recognise that legal expertise is only part of the solution. Designing and implementing an effective framework of protection requires a holistic approach and thinking that extends beyond the legal issues and risks.

Our answer to this is **OXYGY**, our joint venture consulting arm which brings together Bird & Bird legal advice with management consultancy techniques and methodologies.

It's a solution designed to support you with critical business and compliance issues such as trade secrets protection, and to future-proof your organisation against the changing regulatory and competitive landscape.

### A phased, collaborative approach

To assess your trade secrets strategy and define a management framework that works for your business, our integrated team would follow the same four-phase approach.

As well as the legal aspects of trade secrets protection and enforcement, each phase addresses the process improvement, organisational design and IT requirements for achieving an effective and sustainable solution.

It's an approach in which we focus on employee engagement and co-designing solutions that reflect the assets and processes unique to your business.

### A fit-for-purpose framework

The outcome is an effective management framework, which reflects not only your specific business environment and trade secrets strategy but the range of people, process, structure, technology and systems and governance/performance variables that need to be addressed.

This proprietary framework and uniquely integrated approach mean we think differently about the complex challenges associated with trade secrets protection and can provide a complete solution to help protect the future prosperity of your business.

## Your roadmap to Trade Secrets compliance



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