



European IP Helpdesk

Stay ahead of the innovation game.

European IP Helpdesk
Patents and trade secrets

18 December 2025





European IP Helpdesk

- Service initiative of the European Commission
- Addressing **current and potential beneficiaries of EU-funded projects, researchers and EU SMEs**
- Free-of-charge first-line support on intellectual property (IP)
- Hands-on IP and innovation management support
- International pool of IP experts from various thematic fields
- Unique cooperation scheme with the Enterprise Europe Network: 43 ambassadors from 26 EU countries



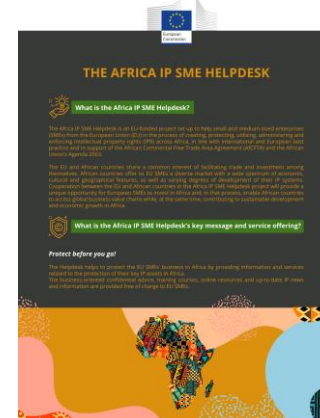
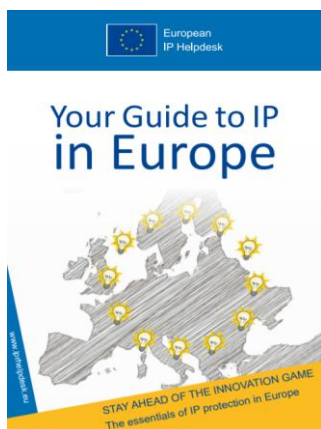


The EC IP Helpdesks





EC IP (SME) Helpdesk Hub – Gateway to Information



- E-learning modules & more
- Guides / Topic, country, sector-specific factsheets / Infographics
- Case studies



Thank you!

- www.ec.europa.eu/ip-helpdesk
- helpline@iprhelpdesk.eu
- training@iprhelpdesk.eu
- X [@iprhelpdesk](#)
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Roadmap

Patents and Trade Secrets, Differences?

Timing

Balancing IP and Open Science

Patents or Trade Secrets?

Trade Secret Management

Patents and Trade Secrets Combined

HEU Obligations



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Recap-What is Intellectual Property?

- Ideas
- Product of mental creation
- Inventions
- Works of art
- Literature





Recap - What are Intellectual Property Rights?

Registrable Rights

- Industrial Property Rights
- Patents
- Trademarks
- Industrial designs
- Utility models
-
-

Non Registrable Rights

- Trade Secrets
- Confidential Information
- Know-how
- Show how
- Goodwill
-
- Authors rights, performance rights
- Copyright



Recap - What are Intellectual Property Rights?

- Protection



- Reward



- Exclusionary



- Not secret



What are trade secrets?

Confidential

Commercially valuable

information,

knowledge,

expertise





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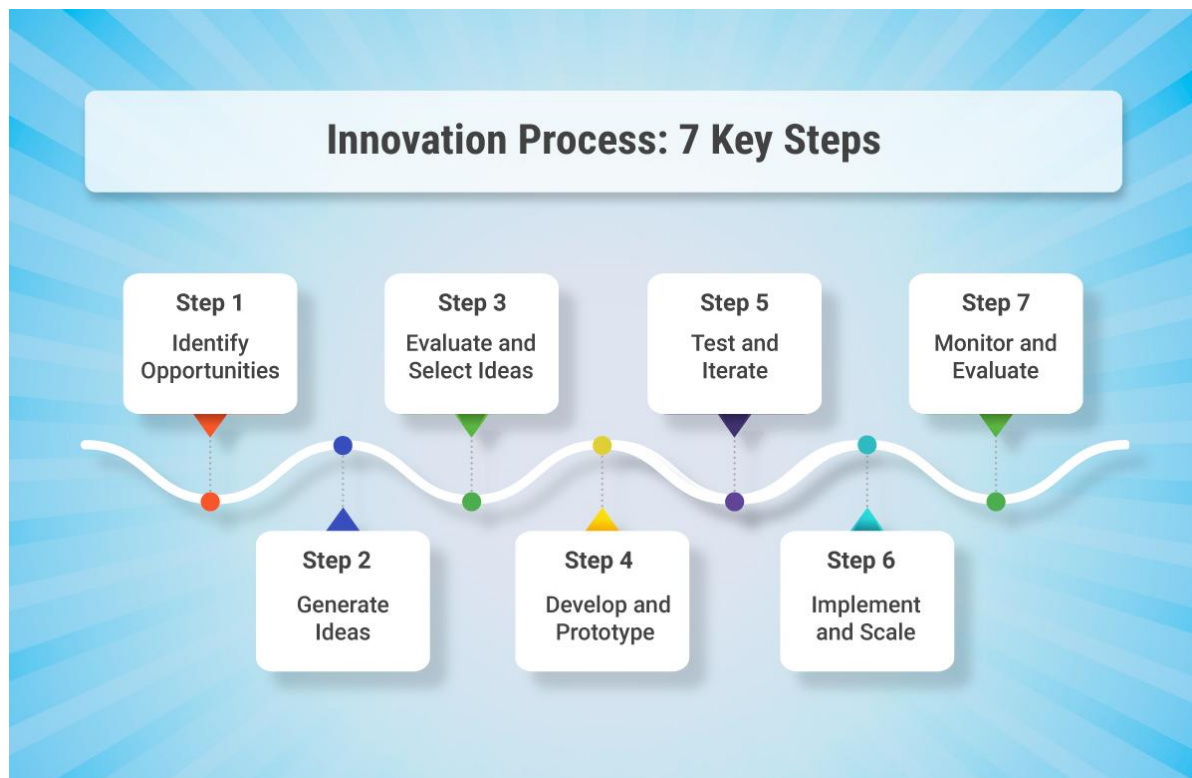
Trade Secret Management

Patents and Trade Secrets Combined

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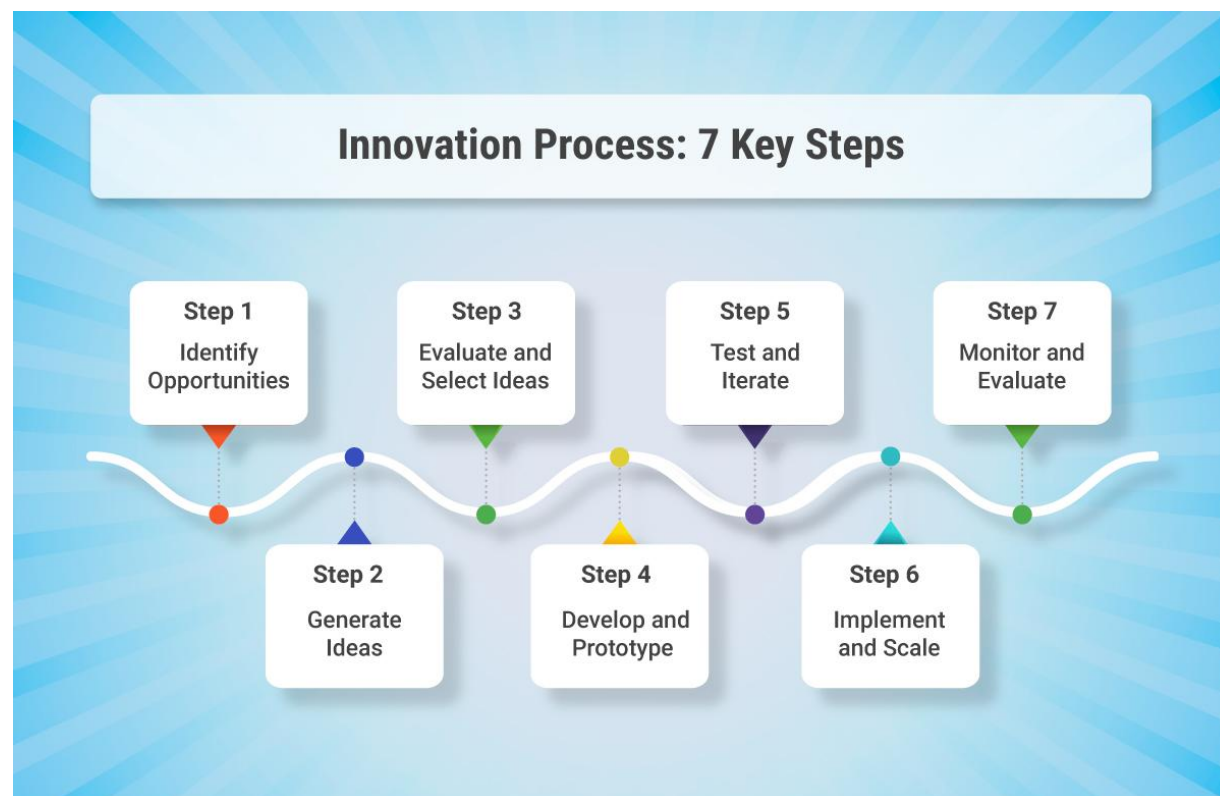
Patents and Trade Secrets in Technical Innovation



<https://ideascale.com/blog/what-is-innovation/>

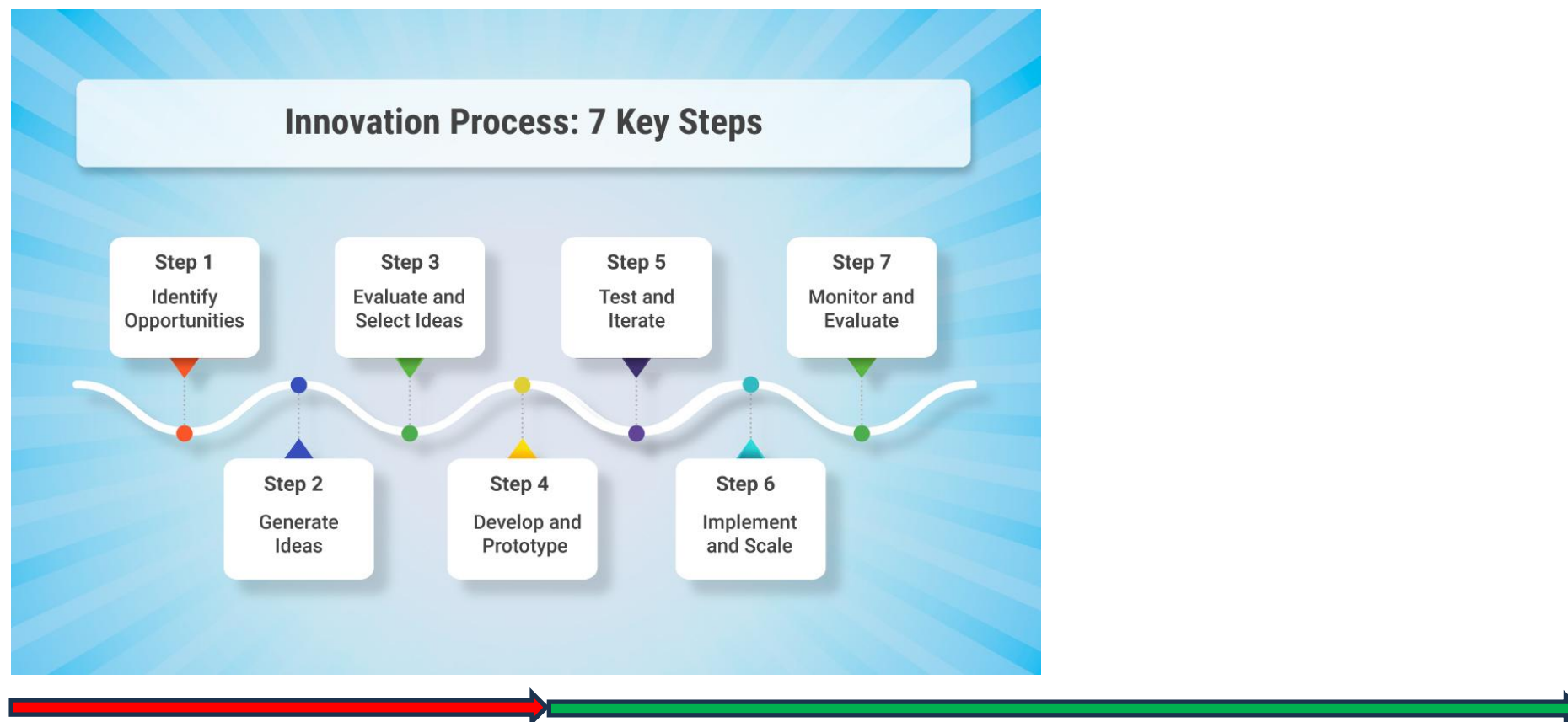


Timing – trade secrets





Timing – patents





As open as possible, as closed as necessary...

...a cautionary tale

Dodging the pitfalls when
commercialising research





The Muscle Growth Factor Story

Children with the growth hormone deficiency have a slow rate of growth, usually less than 2 inches a year. In older children, the condition can result in delayed puberty or the absence of puberty. In adults, symptoms include: Decreased energy.



<https://www.chemistryworld.com/careers/dodging-the-pitfalls-when-commercialising-research/3006792.article>



The Muscle Growth Factor Story

- Academic 30 years research in MGF – filed patent applications
- Pharma company invested through the university's TTO and spinout company
- University hired academic as a consultant with pharma company's investment
- After 9 months pharma company withdrew funding – labs closed – mice killed
- Patent applications unlikely to be granted
- (Academic had published work at a conference)

<https://www.chemistryworld.com/careers/dodging-the-pitfalls-when-commercialising-research/3006792.article>



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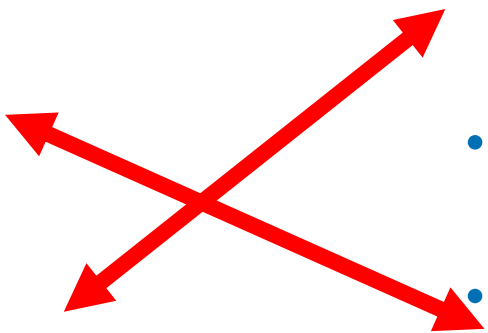
HEU Obligations



- Intellectual Property
- A ***legal system*** (to reward and encourage innovation)
- Based on ***law***
- Open Science
- A ***movement*** (to support and enhance innovation)
- Backed up by ***culture***



Open Science *cf* IP

- Open Science
 - Open as possible
 - Closed as necessary
- 
- Patents
 - Filing, Search examination
 - Patent Application
 - Substantive examination
 - Grant
 - And beyond



Open Science *cf* IP

- Open Science data
 - FAIR
 - Findable
 - Accessible
 - Interoperable
 - Reusable
- IP (e.g.) EPO data
 - ACTUS
 - Accurate
 - Complete
 - Timely
 - Useable

Wilkinson, M., Dumontier, M., Aalbersberg, I. et al. The FAIR Guiding Principles for scientific data management and stewardship. Sci Data 3, 160018 (2016). <https://doi.org/10.1038/sdata.2016.18>

Nigel S. Clarke Oct 2024



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Acknowledgement

- Dr Sara Holland
- <https://www.linkedin.com/in/sarahollanduk/>
- <https://www.potterclarkson.com/>



Patents

- Published 18 months after filing
- Can last up to 20 years (extendable in some cases)
- Costs; official and professional fees throughout lifetime
- Excludes third parties
- But can share



Trade Secrets

- Trade secrets must be kept secret. And public disclosure destroys secrecy
- Can last indefinitely
- No external fees, but internal management costs and effort
- Protection as long as it remains secret.
- But can share (CA/NDA)



When to choose patents

- Technical inventions
 - Novel
 - Inventive
 - Useful
- Could be copied
- Could be reverse engineered



When to choose trade secrets

- Technical inventions
- Can be kept secret
- Minimal risk of third party discovery



When to choose patents - example

- Imagine a new enzyme – Everythingase
- Intended for diagnosis, therapy, remediation
- Sold as part of a kit.
- Third parties could sequence Everythingase
- No longer secret – so choose patent protection



When to choose trade secrets - example

- Everythingase
- Only used in dedicated laboratory under own control
- Not released to third parties
- Can ensure confidentiality in employees and clients
- Choose trade secrets.
- <https://www.hsfkramer.com/insights/reports/2025/unlocking-competitive-advantage-the-strategic-role-of-trade-secrets-in-ip-protection>



A word about enforceability

- Patent
 - Product, Process, Apparatus, Use
- Process patents difficult to enforce
 - => Trade secret



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HEU Obligations



Trade secret management

- Identification
- Physical protection
- Electronic protection
- Monitoring
- Contractual protection
- Education
- Misappropriation
- <https://www.hsfkramer.com/insights/2025-10/protecting-what-matters-how-to-secure-and-monitor-your-trade-secrets>



Identification

Description: Clear identification of materials containing trade secrets

Examples/Methods:

- Cataloguing
- Use of central registers
- Labelling ("strictly private and confidential" and/or IP notice
- and/or restrictions on reproduction/distribution)
- Version control
- Numbering and tracking physical copies tied to specific recipients



Physical Protection

Description: Physically restrict access to material and opportunity to misappropriate

Examples/Methods:

- Hold master materials in vaults
- Restrict access to areas in factories/facilities where trade secrets are in use/visible
- Limiting circulation of confidential material (in both hard copy and electronic)
- Allow inspection or review only in a controlled environment when disclosing to third parties



Electronic Protection

- **Description:** Deploy electronic protections and restrictions
- **Examples/Methods:**
 - Restrict access on "need to know" basis
 - Use network segmentation to prevent general access
 - Ensure appropriate electronic protections such as passwords or encryption and ensure password cycling
 - Use appropriate restrictions on printing/copying/sharing/downloading, electronic watermarks
 - Restrict access to AI/generative AI systems
 - Enforcing employee/end of contract exit procedures with return of materials and/or ensure access blocked



Monitoring

- **Description:** Monitor access to show reasonable steps taken
- **Examples/Methods:**
 - Traditional access monitoring such as sign in/out of key locations or files
 - Monitoring using cameras or electronic session monitoring for software tools
 - Automated auditing tools
 - Reviewing and retaining logs
 - Monitoring employee activities/emails (however consider data protection/privacy law/specific rules for the protection of employees for all monitoring)



Contractual protection

- **Description:** Confidentiality provisions in contracts
- **Examples/Methods:**
 - Confidentiality restrictions in employment contracts and contractor agreements.
 - Consider use of non-compete provisions where possible
 - Use of non-disclosure agreements, confidentiality
 - Appropriate confidentiality clauses in commercial agreements
 - All of the above backed by a confidentiality policy



Education

- **Description:** Educate staff and partners on value and protection of trade secrets
- **Examples/Methods:**
 - Regular training sessions as appropriate to organisation/type of trade secret
 - Reinforce with employment/confidentiality policies
 - Use entry/exit interviews to ensure education of key employees, especially those in-bound/out-bound to competitors



Misappropriation

- **Misappropriation**
- Reasonable steps
- Embedding a culture of respect for trade secrets
- Raise vigilance in the workplace,
- Dangers
- The growth of technology,
- The use of own devices
- Work from home culture
- Hacks, Cyber attacks (external)



Trade secret management – think about:

- Do I need to let many different people know my secret? Can I control them? Can I control who knows what?
- Is the secret going to be sold? Can it be reverse engineered?
- Is it a patentable invention at all? Think databases, pricelists, competitor info – not patentable but valuable trade secrets
- Do I need to impress investors – they 're impressed by patents rightly or wrongly.
- Patents take time, will my secret still be worth something by the time the patent is granted?



Trade secret case study

- Coca Cola can
- Internal Coating not containing bis-phenol A
- Engineer resigned intending to use trade secret info to start business in China
- Sentenced to 14 years in prison



- <https://patentco.com/recent-criminal-case-involving-the-theft-of-coca-cola-trade-secrets-is-a-cautionary-tale-for-current-or-departing-employees/>



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Examples of famous trade secrets



https://www.wipo.int/en/web/trade-secrets/tradesecrets_faqs



Patents and trade secrets

- **BMW's Engine Design**
- BMW's engine design involves a distinctive combination of engineering, design, and technology to create high-performance engines. Their trade secrets are so coveted in fact, that BMW was the victim of an attempted hacking campaign in 2019. Thankfully, the would-be hackers weren't able to gather any useful information before being discovered.
- <https://patentlawyer.io/famous-examples-of-trade-secrets/>



Patents and trade secrets

Result list

☐ Select all (0/25) Compact Export (CSV | XLS) Download covers Print

More than 10,000 results found in the Worldwide database for:
BAYERISCHE MOTOREN WERKE as the applicant
Only the first 500 results are displayed. 1 ▶

Results are sorted by date of upload in database

☐ 1. Selection Device for Driver Assistance Functions of a Vehicle With Adaptation of an Operating Element of a Multifunctional Steering Wheel, Vehicle, and Method

★ Inventor:	Applicant:	CPC:	IPC:	Publication info:	Priority date:
KAGERER WALTER [DE] PLATTEN FREDERIK [DE] (+1)	BAYERISCHE MOTOREN WERKE AG [DE]	<u>B60K2360/782</u> <u>B60K35/10</u> <u>B60K35/22</u> (+9)	B60W30/14 B60W50/08 B60W50/14 (+1)	US2025376181 (A1) 2025-12-11	2022-06-22

☐ 2. Motor Vehicle, in Particular Motorcycle or Tilting Vehicle

★ Inventor:	Applicant:	CPC:	IPC:	Publication info:	Priority date:
HIRN ARMIN [DE] KOTTMANN MATTHIAS [DE] (+1)	BAYERISCHE MOTOREN WERKE AG [DE]	<u>B62J17/00</u> <u>B62J17/02</u> <u>B62J17/10</u>	B62J17/02 B62J17/10	US2025376232 (A1) 2025-12-11	2022-09-14

☐ 3. Method for operating a lane guidance assistant of a vehicle according to environmental conditions, lane guidance assistant and vehicle

★ Inventor:	Applicant:	CPC:	IPC:	Publication info:	Priority date:
GOETZ ALEXANDER [DE]	BAYERISCHE MOTOREN WERKE AG [DE]	<u>B60W10/20</u> <u>B60W2552/05</u> <u>B60W2552/53</u> (+13)	B60W10/20 B60W30/12	US2025376159 (A1) 2025-12-11	2022-06-24

☐ 4. Fastening Arrangement of a Lighting Device on a Structural Element of a Vehicle, and a Vehicle

★ Inventor:	Applicant:	CPC:	IPC:	Publication info:	Priority date:
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Bayrische Motoren Werke



Patents and trade secrets

- **L'Oreal Skincare Formula**
- L'Oreal's skincare formulation is a closely guarded trade secret that involves a unique combination of natural and synthetic ingredients. The process has been refined over the years to create effective skincare products that are gentle on the skin.
-
- <https://patentlawyer.io/famous-examples-of-trade-secrets/>



Patents and trade secrets

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oreal as the applicant
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<input type="checkbox"/>	1. <u>WATER CONDITIONING UNIT FOR A WASHING DEVICE</u>					
★	Inventor: PERRIN VICTOR GANSHOF VAN DER MEERSCH NICOLAS (+4)	Applicant: OREAL	CPC: E03C1/0405 E03C1/046 E03C1/08 (+1)	IPC: E03C1/04 E03C1/046 E03C1/08	Publication info: ES3048770 (T3) 2025-12-11	Priority date: 2020-11-20
<input type="checkbox"/>	2. <u>Skin brightening compositions with thiopyridinone compound</u>					
★	Inventor: CHIOU CATHERINE [US] LIN HUNGTA [US] (+3)	Applicant: OREAL [FR]	CPC: A61K2800/28 A61K2800/5424 A61K8/345 (+3)	IPC: A61K8/34 A61K8/46 A61K8/49 (+1)	Publication info: US12491146 (B1) 2025-12-09	Priority date: 2024-12-20
<input type="checkbox"/>	3. <u>Composition nettoyante de coacervat avec particule minérale</u>					
★	Inventor: CHEN CHANGLONG [US]	Applicant: OREAL [FR]	CPC:	IPC: A61K8/29 A61K8/44 A61K8/60 (+4)	Publication info: FR3162985 (A3) 2025-12-12	Priority date: 2024-06-10
<input type="checkbox"/>	4. <u>COMPOSITION NETTOYANTE SOUS FORME DE MOUSSE STABLE ET PROCÉDÉS D'UTILISATION</u>					
★	Inventor: LIN HUNGTA [US] SINHA RITESH KUMAR [US]	Applicant: OREAL [FR]	CPC:	IPC: A61K8/20 A61K8/34	Publication info: FR3162982 (A3) 2025-12-12	Priority date: 2024-06-10

Oreal



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HEU Obligations



Protection is possible when
ever an IPRight is applicable
to the correspondent IP (E.
g. Ideas not protectable)

Protection is justified whenever th
e means for protection are
balanced to the benefit achievable

General obligation to protect

Each participant must **examine the possibility of protecting its results and must adequately protect them** — for an appropriate period and with appropriate territorial coverage — if:

(b) protecting them is **possible** **justified** (given the circumstances).

When deciding on protection, the beneficiary must consider its own interests and the interests (especially commercial) of the other beneficiaries.

Protection can be secured by IPR or other means (e.g. trade secret protection).



General Obligation to Disseminate and Patents

- A patent is **not secrecy** — it is **controlled public disclosure, it:**
 - Publishes the invention
 - Teaches the skilled person how to reproduce it
 - Makes the knowledge permanently public
 - Dissemination happens **after protection is secured**

Public accessibility
Findability and identifiability
Sufficient informational content
Durability and long-term availability



General Obligation to Disseminate and Trade Secrets

- Trade secrets are the opposite of dissemination relying on **non-disclosure**, not publication, they are:
 - Not generally known
 - Commercially valuable because it is secret
 - Subject to reasonable confidentiality measures
- How are trade secrets legit under the GA:
 - The Grant Agreement explicitly allows protection
 - Trade secrets are recognised IP assets
 - Projects are not required to self-sabotage exploitation

“As open as possible, as closed as necessary”



General Obligation to disseminate: Dangers

- Dissemination is mandatory — but **uncontrolled dissemination can irreversibly destroy value.**
- Risky for Patents:
 - Patents require absolute novelty
 - Any public disclosure before filing eliminates patentability
- Even Riskier for Trade secrets:
 - Protection exists only as long as secrecy exists
 - Once disclosed, protection is lost permanently
 - There is no way to “re-protect” a trade secret