



ANTIGUA & BARBUDA
INTELLECTUAL PROPERTY AND
COMMERCE OFFICE

ABIPCO

ALL YOU NEED TO KNOW ABOUT...
TRADE SECRETS

What is a Trade Secret?

Trade secrets are intellectual property (IP) rights on confidential information which may be sold or licensed. In general, to qualify as a trade secret, the information must be:

- commercially valuable because it is secret,
- be known only to a limited group of persons, and
- be subject to reasonable steps taken by the rightful holder of the information to keep it secret.

What kind of information is protected by trade secrets?

Any confidential business information which provides an enterprise a competitive edge and is unknown to others may be protected as a trade secret. Trade secrets encompass both technical and commercial information such as:

- Information concerning manufacturing processes,
- Pharmaceutical test data,
- List of suppliers and clients, and
- Advertising strategies.

A trade secret may be also made up of a combination of elements, each of which by itself is in the public domain, but where the combination, which is kept secret, provides a competitive advantage. Other examples of information that may be protected by trade secrets include financial information, formulas and recipes and source codes.

How are trade secrets protected?

There are no legal provisions that specifically protect trade secrets in Antigua and Barbuda. The responsibility falls on the owner of the trade secret to protect it by keeping it confidential. This may be done through contract law, marking confidential documents, placing physical and electronic restrictions to access trade secret information, and raising awareness of employees.

What is the duration of trade secret protection?

Since protection depends on the trade secret remaining confidential, the length of protection can last as long as possible if persons are trustworthy and respect contractual obligations.

What are the remedies provided to the holder of secret information?

Antigua and Barbuda provides for remedies in civil law, in particular, tort law and contract law for the breach of a trade secret. A trade secret owner can be compensated for the economic injury suffered in the trade secret's disclosure.

What are the advantages and disadvantages of trade secrets compared to patenting?

Some **advantages** of trade secrets include:

- Trade secrets may continue indefinitely as long as the secret is not revealed to the public.
- No registration costs involved
- Immediate effect; and
- Does not require compliance with formalities or public disclosure.

Some **disadvantages** of trade secrets include:

- A trade secret may be patented by someone else who developed the relevant information by legitimate means.
- Once the secret is made public, anyone may have access to it and use it at will.
- A trade secret is more difficult to enforce than a patent.
- Due to their secret nature, selling or licensing trade secrets is more difficult than patents.

In which cases is trade secret protection beneficial?

While a decision will have to be taken on a case-by-case basis, in the following circumstances, it would be advisable to consider trade secret protection:

- When the subject matter which has been kept secret is not patentable.
- When the likelihood is high that the information can be kept secret for a considerable period of time.
- When the trade secret is not considered to be of such great value to be deemed worth a patent.
- When the secret relates to a manufacturing process rather than to a product, as products would be more likely to be reverse engineered.

For more information, please visit our website at: <https://abipco.gov.ag/>

References

<https://abipco.gov.ag/>

https://www.wipo.int/edocs/mdocs/sme/en/wipo_ip_bis_ge_03/wipo_ip_bis_ge_03_1.pdf

https://www.wipo.int/tradesecrets/en/tradesecrets_faqs.html

https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip_panorama_4_learning_points.pdf



Who We Are

The Antigua and Barbuda Intellectual Property and Commerce Office was established under the Intellectual Property Office Act of 2003. ABIPCO is the national company and intellectual property registry for Antigua and Barbuda and is a department of the Ministry of Legal Affairs. ABIPCO is responsible for administering legislation, registering and keeping records in relation to Intellectual property, Companies, Business Names and Friendly Societies in Antigua and Barbuda.

Office Hours

Monday - Thursday: 8:00am- 4:30pm
Friday: 8:00am- 3:00pm

Contact Us

Antigua and Barbuda Intellectual Property Commerce Office
Hewlett House
St. John's Street
St. Johns, Antigua
Tel: (268) 462 3146
Tel: (268) 562 5437/5439/5440/8468
Fax: (268) 562 5438
E-mail: abipco@ab.gov.ag
Visit the ABIPCO website at: www.abipco.gov.ag