IJNRD.ORG ISSN : 2456-4184
INTERNATIONAL JOURNAL OF NOVEL RESEARCH AND DEVELOPMENT (IJNRD) | IJNRD.ORG
An International Open Access, Peer-reviewed, Refereed Journal

PROTECTING TRADE SECRETS IN INDIA: APPLICABLE LAWS AND BENEFITS

Ritika Verma
LL.M, Student

Amity Institute of Advanced Legal Studies

Amity University, Noida, Uttar Pradesh

Abstract: While knowledge is a valuable resource for every company, trade secrets are often essential to the enterprise's continued existence. It can comprise any nonpublic information that needs to be kept hidden, such as plans, designs, customer databases, formulas, and programmes. A trade secret is any information having marketable value that isn't available to the public and whose disclosure would cause the owner substantial harm, according to a 1995 Delhi High Court corner ruling. Additionally, information that is kept confidential, has a commercial value, and is protected by reasonable measures taken by the information's owner is defined as a trade secret by the Trade Related Aspects of Intellectual Property Rights (passages) Agreement from the same year. Due to the trade secret's commercial value to any business, such information must be legally protected.

As a party to the Trips Agreement, India has the unbending authority to enact laws that protect trade secrets as previously established by prohibiting the unapproved disclosure of information. The Information Technology Law of 2000 establishes legal safeguards for nonpublic information in the form of electronic records in addition to the following.

Trade secret misappropriation can be defined as the unprotected finding of a trade secret through impolite means. Therefore, civil actions for breach of contract and misconduct resulting from misappropriation, as well as criminal actions for theft and breach of trust, constitute the common cause of action against misappropriation or unauthorised dissemination of trade secrets.

A person may be contractually prohibited from disclosing information under contract law. Nondisclosure agreements, or NDAs, are the most widely used instrument for protecting trade secrets. A non-disclosure agreement (NDA) ought to contain precise details regarding nonpublic information that must be kept confidential and not disclosed to outside parties. Furthermore, severe penalties outlined in the NDA for violating it may aid in preventing the third party from learning about the leak. Every NDA should include an alternative dispute resolution (ADR) clause, even though there isn't a formal ADR system in place for disputes involving trade secrets in India. This way, if a disagreement arises, it can be resolved outside of the legal system using conventional ADR techniques like agreement, concession, and arbitration, saving valuable time. ADR practices are, in fact, typically more significant sooner and less valuable than judicial behaviour.

Introduction:

Intellectual property (IP) is crucial in the current competitive corporate environment for gaining and sustaining a competitive advantage. Trade secrets are a type of intellectual property that consist of proprietary knowledge that gives a corporation a substantial competitive edge. Preserving these exclusive information is crucial to

ensure the security of a company's creativity, scientific exploration, and distinctive methodologies. India, an expanding country with a dynamic entrepreneurial climate, acknowledges the significance of safeguarding trade secrets. However, India lacks a specific and comprehensive law that governs trade secrets, unlike several other jurisdictions. This introduction aims to examine the legal structure governing the safeguarding of trade secrets in India, emphasising the relevant legislation and the advantages linked to strong trade secret protection.

1.1 Problem statement:

Trade secrets in India are governed by various elements, including Section 27 of the Indian Treaty of 1872, the principle of inevitable disclosure, and court rulings. The range is limited, but not extensive.

Indian courts occasionally employ the common law approach, however it is not comprehensive and has certain restrictions. This research aims to identify the gaps and current protections in order to provide a comprehensive, robust, fair, and legally sound framework for trade secret protection in India.

What are the specific questions that will be investigated in this research?

Is there a necessity for a standardised protection system for trade secrets, such as intellectual property rights?

What is the reason for India not having trade secret regulations whereas the US does?

What are the limitations of the existing commercial law?

Is it important to modify the comprehensive and enforcement mechanism?

1.2 Research questions:

Is thre a need for a codified protection system for trade secrets such as intellectual property rights?

Why doesn't India have trade secret legislation but the US doesn't?

What are the shortcomings of the current commercial law?

Is it necessary to adapt the comprehensive and enforcement mechanism?

1.3 Significance of study:

In India, individuals who possess trade secrets sometimes remain ignorant of their existence until they are illicitly acquired by a rival company or a former member of their workforce. Trade secrets are a vital part of an organization's intellectual property strategy, similar to patents, as they protect tangible assets. The question of whether trade secrets are derived from contract, law, property, or criminal law is a subject of debate among scholars, attorneys, and courts. Nevertheless, none of these defences were valid or convincing. This study focuses on the formulation of the Trade Secrets Protection Act in India.

1.4 Research Methodology:

The topic of this research article is non-empirical investigations. The approach is solely instructional in nature. Both primary and secondary sources are used in research. Legal documents, ads, and other materials are considered primary material; books, essays, research papers, journal reports, and other materials are considered secondary. Additionally, this research has a comparative and explanatory bent. Laws both planned and in existence are examined and clarified.

1.5 Hypothesis:

The Indian legal s.ystem as it currently exists is unable to address every issue and is deficient in some crucial areas.

1.6 Review of literature:

- The book "Legal Protection of Trade Secrets & Confidential Information" by S.K. Verma was published in 2002: The author has examined both the notions of trade secrets and case laws in which courts have safeguarded proprietary information. The author elucidates the reasons why it is unattainable to exactly delineate a trade

secret. He provided a detailed explanation of the confidential arrangement regarding the business travel. He has discussed the significance of safeguarding trade secrets. He has elucidated the mechanisms by which national legislation protects confidential business information.

- Presenting the Proposed National Innovation Act (Tanushree Sangal, 2007): An overview of the 2008 National Innovation Act proposal is given in this article. The different facets of the proposed act are the main subject of this essay. The author also compared trade secrets to patents and talked about the act's advantages. because trade secrets are not disclosed to the public, while patents are. Furthermore, trade secrets are shielded for as long as they are kept secret, whereas patents have an expiration date. Thus, in this instance, the author has given trade secrets precedence over patents. This places emphasis on the necessity of trade secret protection and mentions trade secrets under IPR. IPR is considered to be permanent in nature. A wider definition of trade secrets than patents, copyright, trademarks, and so forth was covered. This study also explains the springboard theory of English courts. The author then looked at the interaction between employers and employees. It has been studied under two different headings: after employment and when responsibility arises during work. The available trade secret remedies have also been covered in this study. There is additional discussion of the idea of unavoidable disclosure.

2. Intellectual Property Rights

When an individual acquires real estate, they can either utilise the property for personal purposes or leverage it for financial profit. In addition to having an adequate workforce, expertise, financial resources, and other necessary factors, the process of generating wealth also requires intellect. Assets that involve a higher level of intelligence are safeguarded by the owner through the use of intellectual property rights.

Intellectual property rights pertain to the protection of human ingenuity. These rights are upheld as a form of recognition for the innovative and proficient efforts in transforming ideas into reality. Intellectual property rights have permeated all aspects of life. Today, it is imperative to safeguard these intangible assets. The GATT discussions that resulted in the formation of the World Trade Organisation, which includes the TRIPS Agreement, often Recognised intellectual property rights. Prior to comprehending the essence and significance of intellectual property, it is imperative to grasp the concept of ownership. The term "property" encompasses all forms of assets, regardless of their physical or nonphysical nature, whether they are tangible or intangible, perceptible or imperceptible, and whether they are classified as real or personal property. Regarding intellectual property rights, they do not grant the full exercise of all rights, but rather empower the owner to prohibit others from utilising the intellectual property rights. In this scenario, intellectual property (IP) is regarded as a negative entitlement. Intellectual property rights are generally seen as individual rights, except for geographical indications and farmer's rights, which are considered collective rights. Intellectual property rights are transiently bestowed, and once expired, they become accessible to the public, permitting unrestricted usage.

India has successfully kept a harmonious equilibrium between capitalist and socialist ideologies.

2.1 Kinds of Intellectual Property Rights

Intellectual property encompasses creative and original works of the mind. They must preserve their intellectual endeavours that have commercial worth. Various disciplines, including literature, engineering, science, agriculture, and manufacturing, give rise to distinct forms of intellectual property rights :

1. COPYRIGHT

In literature, art, drama, choreography, computers, audio recordings, cinema, and others, intellectual endeavours must be protected. Copyright protects authors' poems, stories, songs, and scripts. The Berne Convention[1] recommended protecting intellectual effort.

The treaty also requires member governments to protect copyrighted items. The Rome Convention [2] protects presentation-related intellectual property. TRIPS defines copyright in this regard. The 1957 Indian Copyright Act protects registered and widely recognised copyrighted material. Legal protection under the Indian Copyright Act of 1957 requires registration by the copyright owner or their representative. This law established a copyright registration office to achieve this. Copyright protection in India lasts 60 years. He has exclusive control over his work until the term ends, unless the author or an authorised representative grants permission. After the author's death, his legal successors can enforce their rights for 60 years. A protected work is identified by a circled C or © symbol, indicating registration and prohibiting unauthorised use.

2. TRADEMARKS

Trademarks are usually used by corporations to represent their products and services visually. They promote other established brands. It helps create and execute advertising strategy. These presentations may be signs, symbols, names, alphabets, numbers, colours, or combinations. Labelling distinguishes product and promotional markets. Many traders cannot use the same brand because it may confuse consumers about its source, quality, and other factors. Additionally, trademarks can be registered. The owner can prevent unauthorised use and protect the consumer with this feature, reducing uncertainty. Registration depends on trademark law. A trademark owner can prevent others from using their trademark and protect consumers. This gives the owner exclusive trademark use. The 1958 Indian Trade Marks Act, revised and restated in 1999[1], governs trade mark registration, protection, and enforcement. The "Paris Convention" protects trademarks as industrial rights. The TRIPS Agreement protects trademarks worldwide.

Service and collective marks were also introduced. The Trade Marks Act of 1999 protects service marks and other trade marks to enforce travel contract laws. The trademark protection period is ten years.

3. PATENTS

Inventors who meet novelty, inventive step, industrial use, and written description requirements receive patents. It must be innovative and profitable. It grants the inventor 20 years. The inventor can assign or licence the invention to anyone.

4. Geographical Indications

Geographical indications indicate origin or standard. Section 2 e, Clause 17,

"Geographic indication," requires commodities to be labelled as agricultural, natural, or industrial products from a specific region, area, or country. Period.Nothing is written.If the products are manufactured, they are produced, processed, or manufactured in a region where their distinctiveness, renown, or other attribute is primarily due to their geographic origin. That region, district, or locality. Registration provides GI protection. Geographical indications do not grant exclusive rights to individuals. Protection is usually limited to national private associations. The Treaty of Lisbon requires global sign protection. The TRIPS agreement required diverse protection laws.

5. Industrial Design

A model is the shape, pattern, configuration, or decoration of an object [1]. It must be appealing and practical for industrial products. The TRIPS Agreement governs design registration. The Designs Act, 2000 protects this design in India. The Paris Convention on Industrial and Copyright Rights safeguards industrial designs worldwide. A striking new design that has not been commercially used must be registered for protection under design law. The registrar requires a defence statement from the owner. The designee can use for 10 years, which can be extended.

6. Integrated circuits and semiconductor layout designs.

Electronic circuits make up electronic devices. Electronic devices contain functional circuits. Electronic circuits are built with semiconductor chips, or echips. Topography or layout design of integrated circuits and chips requires creativity and effort. Computer programmes used to arrange transistors, circuit parts, and cables are called layout design tools. To comply with the travel agreement, the In 2000, India passed the Semiconductor Integrated Circuits Layout Act. Integrated circuits that are new, unique, original, and previously used are protected by this law. There are also remedies for property rights violations.

7. Protecting plant varieties and farmer rights

India, a WTO and TRIPS member, has agreed to implement new plant variety protection laws. Article 27(3)(b) of the TRIPS Agreement requires member nations to protect plant varieties through patents or sui generis. With the individual's consent, India passed the "Plant Variety Protection and Farmers' Rights Act" in 2001 and established its guidelines in 2003. Plant Variety Protection and Farmers' Rights Authority began in 2005. The 2005 Plant Variety Protection and Farmers' Rights Act protects breeders, farmers, communities, researchers, profit sharing, and compulsory licences.

8. Trade Secrets

Businessmen's interests must be protected in the globalised era. Trade secret law protects corporate interests while antitrust laws prohibit market manipulation. Common law principles like avoidance of unjustified advantage and fiduciary duty protect trade secrets. The unfair advantage principle states that no one should

benefit at the expense of others. According to fiduciary duty, knowledge acquired through trust must not be misused to harm others. Indian courts have protected industrial secrets under contract law, copyright law, equity, and sometimes common law, even though there is no trade secret law.

Breach of trust and section 72 of the IT Act 2000 protect only electronic documents. Trade secrets include sales, distribution, consumer profiles, advertising, supplier and customer lists, and production processes. Trade secrets are determined by the facts of each case, including industrial or commercial espionage, breach of contract, and breach of trust. Formulas, computer programmes, processes, methods, technologies, devices, pricing, customer lists, and other confidential information are trade secrets. Intellectual property rights, like all others, are growing in importance in the country's economy. The IP range must be maintained because values are the main privacy goal. Intellectual property rights, like all others, are growing in importance in the country's economy.

2.2 Protection of the trade secrets

One of the basic principles of valid retention is that an employer has the right to hire his employees after termination of employment to provide reasonable protection against trade secret misappropriation and to preserve the trade secret. Employment is not just a right of an employee who cares. Employer rights include imposing duties on employees. As for the employee, he owes loyalty to his employer. An employee may not disclose confidential information obtained in the course of employment to another. The employee may be prohibited from disclosing such information. However, this does not extend to all information that may be required during the employment relationship. The employee is entitled to protect only confidential information that is a trade secret.

Confidential information must be highly confidential before it can be called a trade secret.

There are a number of factors to consider before classifying information as a trade secret.

1) The nature of the work performed during the employment relationship must be considered. 2) The nature of the data must be considered.

3) It must be checked whether the employer has asked the employee to keep the information confidential. The court's decision shows that the purpose of contractual restrictions is to protect trade secrets, but there is no uniformity in the decisions. Star India limited v. The plaintiff Laxmi raj Seetha ram Nayak[1] was a company incorporated under the Companies Act, 1956 known as star India Pvt Ltd. The defendant was an employee of the plaintiff company and entered into a non-competition agreement during the

employment relationship not to disclose information and not to start or conduct competing business activities after six months of the plaintiff's employment relationship. The defendant submitted his resignation; Subsequently, the plaintiff refused to accept the notice of resignation sent by the defendant and demanded that he be employed for a few more months under the service contract. A few days after that, the defendant stopped coming to work and joined another country in the news distribution business. The plaintiff company then applied for an injunction against the defendant. The court held that the defendant cannot be forced to return and work for the plaintiff simply because of the plaintiff's disadvantageous circumstances. Restricting healthy competition is against public policy. To grant an injunction to the plaintiff would by implication compel a contract to enter into personal services which otherwise cannot be rendered, and such a contract falls within the meaning of Section 27 of the Indian Treaty,1872.

But at the same time, the court ordered that the defendant cannot hand over or disclose the plaintiff's business plans and franchise agreements that he receives while working at his workplace. In another case, diljeet Titus v Alfred A adebare et al.[2], the defendant was a regular lawyer in the plaintiff's law firm. At the end of the term, the defendant deleted key business information such as customer lists and ownership rights. the plaintiff argued that such items were trade secrets. The defendant argued that because there was an express relationship between the parties that was not that of employer and employee, they were the owners of the copyright in their work

[1] *Star India limited v. Laxmi raj Seetha ram Nayak* AIR 2003 Bom 563.

[2] *Diljeet titus v Mr. Alfred A adebare and others* (2006) 32 PTC 609 Del. [3]AIR 1962 Cal 61.

during the employment relationship. The court rejected that argument and then found that the plaintiff had a clear right to remove the materials from the defendant. The court prohibited the defendant from providing a similar service using the confidential information in question. The defendants refrained from using the collected information only because it was necessary to protect

the interests of the plaintiff. An employee may not be prevented from accepting employment unless the employer can demonstrate that the employee may disclose confidential information and secrets obtained while working for the employer while working for a competitor. In Gopalis, paper Mills limited v Surendra k Ganesh das Malhotra [3] , the plaintiff was engaged in the manufacture of paper. The defendant was appointed assistant for twenty years. During those two years, he was prohibited from giving advice and information to other persons or companies that he received during his employment. The accused left after one year of service. The court did not issue an injunction to the plaintiff on the ground that since no secrets or confidential information was communicated to the defendant, the protection of the interests of the employer never arose. Courts take such positions to protect the public order of the accused. It can be understood as a restriction of competition if the ban is imposed in such and such cases on the basis of a non-disclosure agreement. Similarly, the appellant company in the case of Jet Airways ltd Vs. Jan peter Ravi Karnik [3] as defendant piolet. After that, the company organized training to enable the accused and other pilots to fly new generation aircraft. There was an agreement that the accused would serve in the service of the complainant for seven years and would not take up similar work in the service of any other organization during that period. However, the defendant resigned within six months of completing the

---

training and joined another airline. An injunction was then filed against the defendant. The Bombay High Court refused to engage the respondent with the incoming airline on the ground that the negative contract was biased and unreasonable. The court took the position that the employer did not have property rights that needed protection. The court distinguished the facts of the jet airways case from the Golikari case of Niranjan Shankar golikari Vs. century spinning and manufacturing company [424] . The court found that the training provided by the defendant in this case was not collusive in the Golikars case. Even employees of competing airlines were trained by the airlines that filed the same complaint. The defendant did not receive specific information about trade secrets that belonged exclusively to his employer. In Sandhya organics, Pvt ltd v united phosphorous ltd[5] the plaintiff and defendant were manufacturers of the same industrial chemical. The defendant hired the plaintiff's former employee to maintain the trade secret after the termination of the contractual employment relationship. Later, the plaintiff protested that the employee employed by the defendant was the same as before employee, so the information kept is confidential and cannot be disclosed to the defendant and is against the contract signed by the employee. After that, it was proved that the accused was engaged in the same business even before the employee entered the service; In addition, the employee in question was an experienced person in this type of work and has been doing this type of work in various places for the past 15 years. Therefore, the court considered that the employee cannot be prevented from joining the defendant and can use the acquired skills and knowledge in his career, and the restrictive agreement is invalid. At the same time, the employee cannot use any specific company information while working in the defendant's company. The employee's right to seek better employment and work is not limited by the ban, even if he has confidential information. The freedom to change the employment relationship in order to change the working conditions is an important right of the employee, which cannot be limited or limited, especially on the basis that the employee has at his disposal the information and information of the employer about customers for a limited time. , which is in turn verifiable. at least at the expense of the defendant or some independent publication. Section 27 of the Indian Contract Act may apply to such limitation and the common law and equitable doctrine of English law are not applicable in the facts and circumstances. An injunction can be granted to protect the rights of the plaintiff and it cannot at the same time be granted to mitigate the legal rights of the defendant, especially if the court has doubts about the truth of the version of the [25] Niranjan Shankar Golikari v. Century

---

[3] *Jet airways ltd v Mr. Jan peter Ravi Karnik* (2000) 4 Bom C.R. 487.

[4] SC 1098.

[5] Supra n68.

Spinning and Manufacturing Company Limited, AIR plaintiff and if it seems that the injunction was searched for for foreign reasons. Thus, no injunction is granted in the case of american express bank ltd Vs. Priya puri[6]

2.3 Criminal remedies for the misappropriation of Trade Secrets[7]

Although there are no specific remedies in Indian law against misappropriation of trade secrets, certain provisions of the Indian Penal Code and the Information Technology Act provide certain remedies which can also be used in cases of misappropriation of industrial secrets. Sections 405409 of the IPC dealing with criminal breach of trust and section 418 dealing with cheating can be relied upon as an appropriate remedy for a serious offence. Section 43 of the IT Act, 2000 compels the culprit to pay a maximum of one million damages to the victim through competition. Section 66 also provides for punishment which may extend to three years or fine which may extend to 500,000 rupees or both. This legislation also recognizes the liability of third parties. They are very rarely used and very limited in scope because they are not specifically designed to protect trade secrets. In Pramod, Laxmi Kant sisamkar v Garware plastics and polyester [8] son, the petitioners were engineering students working in the respondent company. The petitioners were initially appointed for a period of three years but were later extended for another three years when they agreed to serve. But before the end of the three-year extended period, he left the company and joined some other company. The two respondent companies then filed a suit against the petitioners for acting against the conditions. It should also be noted that they must hand over all documents in their possession upon departure. It was also alleged that the petitioners have technical know-how and used it in another company they joined. Based on the complaints, the CJM registered a criminal case against the petitioners for breach of trust and fraud punishable under Sections 408 and 420 of the IPC. The applicants appealed the orders. the names of the documents were not mentioned in the complaints. The Bombay High Court held that the prosecution was consistent. It would amount to harassment of the accused and abuse of process if he were allowed to proceed without adequate justification. He also observed that the learned Judge did not attempt to examine the requirements of Section 408 and the provisions. 420. It cannot be said that they acquired the technical knowledge fraudulently or dishonestly. The learned trial judge
erred in initiating proceedings against them in those cases; the order directing the process against them may be annulled. The Indian Convention mainly deals with the legal validity of noncompetition agreements entered into under Section 27 of the Indian Contract Act and provides that an agreement which prevents any person from carrying on a lawful profession, trade or business is void in that respect. Indian law contains special currents in today's context. Indian law is considered rigid in the sense that it nullifies all restrictions, whether general or partial, and the test of reasonableness or the test of partial restriction does not apply to cases falling within the ambit of Section 27 of the Indian Contract Act, except if they within the exceptions to the Act. This is because of the fundamental rights of every person to engage in any profession or occupation. Section 27 of the Contract Act was enacted at a time when trade was underdeveloped and the main purpose was to protect the trader against restrictions. Over time, trade increased in India as the Law Commission of India recommended that reasonable restrictions on trade be allowed. In Indian law, the law of moderation of trade is clear and seems to be favorable to the worker, unlike in Great Britain and the United States. Section 27 of the Indian Contract Act requires that the validity of an agreement in moderation of business must be acceptable between the parties and in the general interest. The essence of Indian contract law is that under Section 27 all

agreements in restraint of trade are prima facie unenforceable. But the judgments show that the law does not condemn every such union as long as it is reasonable and not harmful to the public interest. Disclosure of a trade secret is also protected by the RTI Act and the Competition Act, and the criminal provision is IPC 1860 for the benefit of the holder. It works 2000 punish trade secrets buy such no exclusively for trade secrets. In India, the courts' liberal interpretation of Section 27 lacks uniformity and that section also covers only noncompetition clauses. many issues such as trade secrets, misappropriation, disclosure are not covered by section 27. Other regulations such as competition law do not only deal with trade secrets. It is high time to pass comprehensive comprehensive legislation for protection.

[6] *American express bank ltd v Ms. Priya puri* . (2006) IIILJ 540 Del.

[7] *https://www.hhrjournal.org/2021/06/addressing-the-risks-that-trade-secret-protections-poseforhealthandrights*

[8] *Pramod, son of Laxmi Kant sisamkar v Garware plastics and polyester* (1986) 3 BomCR 411.

3. WIPO AND THE TRADE SECRETS:

WIPO was founded on July 14, 1967, entered into force in 1970. WIPO has been a specialized agency of the United Nations since 1974 and administers several international agreements in the field of intellectual property (IP)[9]. Its purpose is to promote the protection of intellectual properties throughout the world[10] through cooperation between countries and, if necessary, joining with another international organization. It also takes care of the provision of administrative cooperation between the federations on intellectual property rights established by the Paris Convention and the Berne Convention and the subagreements concluded by the members of the Paris Union. In addition, it plays an important role in protecting the interests of traders and inventors.

3.1 HISTORY AND DEVELOPMENT OF WIPO: The true origins of WIPO come from 1883 and 1886, when the Paris and Berne Conventions began. These were the creation of international secretariats, which were then placed under the control of the Swiss federal government, with administrators based in Bern and Switzerland. Originally there were two secretariats, one for industrial rights and one for copyright .Bureaus for Protection of Intellectual Property) knows this before it becomes WIPO. In 1960, BIRPI moved from Bern to Geneva. The agreement between the United Nations and WIPO states that WIPO is under the jurisdiction of the United Nations and its organs and is responsible for taking appropriate action in accordance with the Constitution and conventions and promotional agreements. facilitating intellectual activity and then technology transfer in developing countries to promote social and cultural development. WIPO's mission is to promote the creation, dissemination, use and protection of the work of the human mind through international cooperation for the economic, cultural and social development of all mankind. It aims to promote a balance between stimulating creativity worldwide, adequately protecting the moral and material interests of creators, and enabling the socio-economic and cultural benefits of such creativity worldwide.

3.2 TRADE SECRETS UNDER THE WIPO: Since the inception of the Paris Convention and the Berne Convention, more efforts have been made to protect intellectual property rights in various forms. And over time, intellectual property became more emphasized. Some states treat trade secrets as part of tort law. Some countries have criminal, commercial, administrative or civil laws that prohibit the unauthorized use or disclosure of trade secrets. WIPO protects trade secrets under Article 10 bis (unfair competition) of the Paris Convention of 1967. The same references can be found in Section 7 of the TRIPS Agreements, which protects confidential information. Article 10 bis of the Convention states that the federal states are obliged to ensure that persons entitled to benefit from the Convention are effectively protected against unfair competition. However, the treaty does not specify how the protection is provided, so it is left to the discretion of the applicable laws of each member state. Article 10a of the Agreement defines unfair competition as competitive initiatives contrary to fair industrial or commercial practice[11].

[9] *https://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm*

[10] *ibid*

[11] UNDISCLOSED INFORMATION, UNFAIR COMPETITION AND ANTI COMPETITIVE

3.3 WTO AND IPR: AN OVERVIEW OF THE TRIP AGREEMENT: As the trade and commercial life of the world economy grew, it was concluded that GATT could not meet the many new global challenges. Then the Uruguay Round begins. One of the last achievements in this field was the creation of the WTO. The WTO then replaced the GATT, which had been in force since 1948. The WTO is a forum for negotiating agreements aimed at reducing difficulties in international trade and ensuring a level playing field for all, which in turn promotes economic growth and development. . The WTO provides the legal and institutional framework for the implementation and monitoring of these agreements and the settlement of disputes arising from their interpretation and application. The WTO TRIPS Agreement was signed on April 15, 1994 and entered into force on January 1, 1995. The TRIPS Agreements are considered a historic event in the history of protection and a breakthrough signal in the direction of protection, harmonization, internationalization and globalization. The WTO Agreement is therefore an international agreement and it sets a minimum standard that obliges member states to provide strong protection of intellectual property rights in accordance with their domestic legislation. The TRIPS Agreement sets a minimum standard that all WTO members must meet for the protection and enforcement of intellectual property rights. The main duty of all countries is based on national treatment and most favored nation (MFN). The TRIPS Agreement mainly consists of 7 parts containing 73 articles.

Part I - general provisions and basic principle (Articles 1-8),
Part II - Standards for Access, Scope and Use of Intellectual Property Rights (940),Section7 Protection of undisclosed information,

Part III - Enforcement of intellectual property rights (Articles 41-61),
Part IV- Acquisition and preservation of intellectual property rights and related procedures between the parties (Article 62),
Part V - Dispute Prevention and Resolution (Articles 63-64),

Part VI - transitional arrangements (65-67),

Part VII - Institutional arrangements, final provisions (Articles 68-73)

Regarding copyright and related rights, countries should be bound by Articles 121 of the Berne Convention for the Protection of Literary and Artistic Works. The TRIPS agreements require countries to protect computer programs as written works under the Berne Convention and to protect information and other material that constitutes intellectual creation because of its content arrangement. For trademarks and service marks, travel protects trademarks under the Paris Convention for the Protection of Industrial Rights in several ways. First, TRIPS defines trademarks, second, there should be a system of trademark registration and service marks that includes cancellation of notice of publication. Third, the protection of well-known trademarks is also extended to service marks. Member States must refuse to register or cancel the registration of a trademark containing a geographical indication that refers to goods that do not come from the declared territory, if the use of the trademark misleads the public about the true place or origin of the goods. for industrial designs, travel requires states to provide coverage for new and original designs, subject to some exceptions. For patents, travel implies its availability everywhere. The only exceptions are diagnostic, therapeutic and surgical methods for the treatment of humans and animals, and then for the treatment of plants and animals (except microorganisms), as well as essentially biological processes for the production of plants or animals. It also states that countries that do not offer patent protection to plant varieties must ensure protection through an effective sui generis system. According to semiconductor layout plans, contrary to the Washington Convention on Intellectual Property in Integrated Circuits

1. Specifically covers a product that contains security chips.
2. Ensuring reasonable royalties are paid
3. Extension of protection to 10 years (in Washington it was 8 years)

PRACTICES , *https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/modules7_e.pdf(last*

4. Prohibition of compulsory licensing of semiconductor chip placement, except as an antitrust remedy or for non-commercial government use. Regarding trade secrets, the TRIPS Agreement indicates secret information, but it refers to the socalled to trade secrets. In addition to providing protection, TRIPS takes measures to protect against unfair commercial use of information provided to government agencies to obtain marketing authorization for pharmaceutical and agrochemical products containing new chemical entities.

3.4 TRADE SECRETS UNDER THE TRIPS AGREEMENT

The protection of undisclosed information is mentioned in Section 7 of Part 2 of the TRIPS Agreement. So, secret information here means trade secrets. Article 39(1) of the Travel Act provides that, in order to effectively protect against unfair competition under Article 10 bis of the Paris Convention of 1967, members must protect non-public information as described in paragraphs 2 and 3 of the Convention. .
Section 2 contains the general category of confidential information protected by the common law system, and Section 3 provides protection against disclosure and improper use of information provided to the government. Article 10a does not contain any reference to the protection of confidential information as an element of unfair competition. Article 10 bis paragraph 2 of the
Agreement defines unfair competition as competition that is contrary to fair practice in industrial and commercial operations. Article 10 bis(3) lists three specific prohibited activities.

(i) any act which in any way interferes with the establishment, goods or industrial or commercial activities of a competitor;

(ii) false statements made in business that disparage the establishment, goods or industrial or commercial activities of a competitor;

(iii) references or statements intended to mislead the public about the nature, production process, characteristics, fitness for purpose or quantity of the goods.102 So, in conclusion, it can be said that the travel contract provides for the protection of trade secrets, referring to the type of protection provided by the Paris Convention or WIPO. The negotiators of the travel contract were very interested in the confidentiality of the test data provided to government agencies. This involves a long approval process, especially for a drug, and the potential for authorized acquisition of such information from competitors has been given. This is contained in Article 39.3.

Article 39.3 also contains three limitations:

1. This only applies to pharmaceutical and chemical products

2. The protection is extended "only" against unfair competition

3. The state institution is exempted from the confidentiality requirement in the interest of the public. Accordingly, it was said that the issuing government agency may use the applicant's confidential test data when reviewing another applicant's applications for similar products.

4. RELATIONSHIP BETWEEN WTO AND WIPO FOR THE IP PROTECTION

The preamble to the TRIPS Agreement expressly states that the WTO requires mutual support with WIPO. This relationship offers cooperation mainly in three areas:

- notification of, familiarity with, and compliance with national laws and regulations
- implementation of procedures for the protection of state symbols

- and technical cooperation

  Cooperation between the WTO and WIPO includes cooperation on intellectual property rights and the implementation of the TRIPS Agreement, and cooperation on computerized databases.

  The categories recognized as trade secrets are:
  If certain information meets the confidentiality test, it can be considered a trade secret. The following are some examples where various courts around the world have accepted trade secret protection and are considered confidential information and can be summarized as follows. • formula

- patterns
- plans
- models
- physical devices
- processes
- software
- competence[12]

But the above list is by no means exhaustive; there are other categories that can be considered trade secrets. It was also observed that different courts could come to different and conflicting conclusions about the status of a trade secret, but the conclusion would be the same, ie. the information must be confidential, the owner must take reasonable steps to preserve the information. confidential and this information must not be publicly available.

- Formula A

formula means a group of symbols that gives a mathematical statement or a conventional statement that expresses some basic principle or representation about content. symbols of its components. It gives the right direction to do something valuable or profitable.

The formula may be a trade secret. Example: Coco-cola company's formula gives a great advantage in the soda market because there is no other soda with the same taste. • Template A model is a form, model or pattern (set of rules) that can be used to create objects or parts of an object. In other words, we can say that detecting patterns in the background is called pattern recognition. If the model complies with the principle of confidentiality, it can be protected by a trade secret. For example: a sample method for packing and delivering goods, a model for advising customers.

- Plan

A plan is considered a planned or intended method of bringing conditions to another. They move from the current situation to the achievement of one or more goals or objectives.

[12] TRADE SECRETS PROTECTION

https://shodhganga.inflibnet.ac.in/bitstream/10603/291861/9/09_chapter%20vi.pdf

Plans are usually offered or disclosed when a product is patented, but if the inventor wants to keep it secret, it can be kept confidential in the trade secret category. In companies, he uses this intelligence to create business plans, for example: a plan to sell a product in a certain area using a certain marketing style.

- Planning

A design is considered a decoration or a work of art. You can also say that arrangement.
some classes of goods or inventions that can be considered designs include: 1) circuits for a high-end minicomputer

2)color television circuits

3)analog circuit diagrams

- Physical devices

A device that has some physical embodiment can be called a physical device. If it is used in production, it can be called a trade secret. For example, equipment for the manufacture of radio parts, machinery and equipment used in the production of saw quality diamonds. • Process A process is considered a general method of doing something, usually involving certain steps or activities that are usually sequential and/or interdependent. The processing method or technology by which the final and final product is produced can also be called a trade secret. Some examples: potassium sulfate manufacturing, glass fiber manufacturing process.

- Software

A good reminder is the case of Broker Genius, a move to increase the ability to protect software as a trade secret.

- Know how

Information that enables a person to perform a specific task or use a specific device or process. Capable information can be a trade secret. Examples of trade secrets: knowledge related to the chemical structure of the plant, testing methods and quality assurance of raw materials.

3.5 TOOLS FOR PROTECTING TRADE SECRETS

Owners of trade secrets must use various non-disclosure agreements and noncompetition clauses when employing persons with access to trade secrets during courses. Various tools to protect trade secrets ensure that there is no misuse, sabotage or privacy. Companies must ensure that they protect their trade secrets by implementing certain tools. Some of the tools are shown below.

- Employment contract:

In order to maintain confidentiality, one must make an employment contract that depends on the nature of the work and contains non-qualification and noncompetition clauses with employees. Such agreements may contain restrictions on the disclosure of certain types of information and restrictions on their use after the termination of employment. Trade secret policy This is another means of protecting trade secrets. They are necessary for the company; they rely heavily on trade secrets to expand their business. The first step in developing such a policy is to identify and prioritize trade secret information based on its value and sensitivity. In such cases, employees must be informed of these policies and the consequences of violating the policy before actually following the policy, so this should be done with confirmation. Nondisclosure agreements companies sign NDAs with employees and third parties. This prevents a third party from disclosing trade secrets because of the contract.

relevant documentation it is very important to keep records of companies' trade secrets to show that they have developed them and that they own them. All trade secret updates must also be recorded. these documents would have probative value in any lawsuit and help them make a strong case for the trade secret they actually own.

- Security systems security clearance is required to protect trade secrets:.

Access to trade secret protection and confidential information may be restricted to selected individuals using security controls. For example, in an electronic environment, companies can use existing software, antivirus, firewalls and other information security and authentication technologies to protect trade secrets. Trade secret protection can be extended indefinitely and can give them an advantage over other intellectual property protections that only last for a clearly limited time. In the past, trade secrets were used to protect advanced military technology from enemies, terrible enemies..but in today's society and technological innovation, trade secrets have become commonplace [13] . When proper safeguards are in place, trade disclosure. secrets are only possible through legal methods such as reverse engineering, industrial espionage.

4. TRADE SECRETS UNDER THE NATIONAL INTELLECTUAL PROPERTY RIGHTS POLICY.

The National Policy on Intellectual Property Rights was approved in May 2016 as a visionary document that guides the further development of intellectual property rights in the

country. Its rallying cry is Creative India, Innovative India. The first draft of the policy was published on 19 December 2014 and the final policy was approved by the federal government in 2016. So much effort was made not only to see the importance of IPR for economic development in general, but also to find place for trade secrecy as an inevitable condition of India's detailed IPR policy.

In addition to these objectives, below is an accurate transcription of some critical areas.

- Summary:

Creativity and ingenuity are considered one of the most important means of economic development. A good IPR policy structure makes people give their full IPR potential for the growth of India while protecting the public interest. The main motive of the national policy on intellectual property rights is to increase awareness of intellectual property rights as a tradable commodity and an economic tool[14].

- Vision:

In India, it is important to stimulate creativity and innovation, which in turn benefits all this IP promotes the development of science and technology, traditional knowledge, biodiversity resources, etc. in India, because knowledge is the most important development and own knowledge is becoming. knowledge that is shared.

- Task: it includes the promotion of creativity and innovation and thus promotes entrepreneurship and socio-economic and cultural development priorities in the areas of access to health services, food security and environmental protection, among other important areas.

There are seven main objectives:Raise society's awareness of the economic, social and cultural benefits of intellectual property rights: the 21st century is considered both a modern and information age. A nationwide

[13] Cynthia M. Gayton, *"Commercial Satellite Imagery: Confidential Information Knowledge Management and Trade Secret Law"* 37 (2) JIKMS 192-206 (2007).

[14] Activities IPR Cell, *http://www.piet.poornima.org/public/main_assets/dvv/3.2.2.pdf*

program is being implemented to create awareness and raise awareness. Such a program brings incentives in both the public and private sectors. R and D focuses on various industries, resulting in the creation of defensible IP addresses that can be monetized. • creating a translatable and innovative atmosphere. This means promoting the creation of intellectual property rights. India has a large pool of scientific and technical talent spread across various organizations. The potential of various fields must be quickly assessed

- legal and regulatory framework - to be ignored in favor of a stronger framework. It is important to have an effective and strong IPR law that balances the interests of fundamental rights holders with the wider public interest. : Existing intellectual property rights will be reviewed after the entry into force of the TRIPS Agreement. India is very rich in knowledge of traditional medicine and it is very important to protect it.

- development of human capital
- It is also important to develop a pool of IPR professionals and industry experts to focus and exploit the full potential of PR. Such a group of experts will help further promote IPR activities in the country.
- Administration and management

The cornerstone of an effective and balanced intellectual property system is the officials who manage the various intellectual rights.

- Commercialization of intellectual property rights

The country can be improved economically only if entrepreneurship is encouraged. It is very necessary to connect investors and IP cre. • enforcement and judgment There is a need to create details and knowledge about intellectual property among the public to attract more investors and increase investment, which in turn helps the economy.

5. ECONOMIC SIGNIFICANCE OF THE TRADE SECRET PROTECTION

The owner of intellectual property has various rights and interests arising from his property. One of the owner's main goals is to make a profit and maximize the rights granted by the various intellectual property laws. The economic importance of intellectual property rights is very important because they play a decisive role in the service of the owner and the related land. Foreign direct investment directly affects the development of the nation, therefore it is very important to adequately protect the interests of the investor to increase the foreign direct investment and domestic investment. Trade secrets are one of the categories of intellectual property rights that have the highest financial importance in the current scenario. A trade secret or know-how may consist of additional information obtained from the use of a patented invention which, although not patentable, allows the patented product or process to be used more efficiently. The exclusivity of Sujo offers the owner the opportunity to opt out of free use and increase their investment. There are many reasons to expand trade secret protection. A patent can be rejected after it has been issued. The process of obtaining a patent is long and uncertain. Patent protection only lasts for a limited time, but trade secrets only last so long. You can enjoy them longer. Protecting trade secrets is not just about registration, but also about taking the initiative to maintain confidentiality and contractual restrictions on use. There is also no time limit on trade secrets. Voluntarily disclosed, insufficiently protected or translated trade secrets lose all protection and become an object of free competition. Trade secrets affect the economic development of the country. Therefore, keeping information secret is a serious challenge to competition law.

If disclosure 76 does not happen, the knowledge is not available to competitors and the general public. This small business high technology leads to a concentration of economic power, which means riskfree competition. Each country has its own specific laws governing anti-competitive policies, and a law protecting trade secrets is crucial to encourage investment in innovation. As in India, the Competition Act 2002 regulates and prohibits unfair anti-competitive policies. Trade secrets have more positives than negatives. Today, companies increasingly rely on intangible and knowledge-based assets to remain competitive in the market. Protecting intangible assets is important because it plays a vital role in its success. In certain situations, trade secrets can last longer than a patent. Even important scientific discoveries face difficulties with patent protection. They can also be protected by trade secrets. Even if the technology is not covered by traditional intellectual property rights,

trade secrets are useful. Inventions, trademarks, industrial designs, etc., which have not yet been published, are kept as trade secrets until the publication or registration or the granting of the corresponding intellectual property rights. A significant amount of significant technology, especially new and advanced technology prone to reverse engineering, such as biotechnology computer microchip programs, is kept as a trade secret. Many studies evaluating trade secrets, patents, copyrights and other intellectual property rights have shown the effect of trade secret protection, as well as its effect on foreign direct investment and voluntary transfer of technology. One of them is the research of Keith E Maskus. Keith E Maskus [15] found that to encourage foreign direct investment, intellectual property rights should have different meanings in different sectors.

Companies investing in a local RandD facility pay special attention to local patent and trade secret protection. this protection was provided by Mansfield Keith E Maskus research shows that India is seen as the biggest concern regarding intellectual property, with 80% of chemical companies surveyed saying they cannot enter into joint ventures or transfer new technology to their subsidiaries or affiliates. independent companies in India. Keith E Maskus summarized [16] : Economies more open to trade and direct investment would experience a growth premium from the strengthening of intellectual property rights than closed economies. Stronger property rights create market power that is easier to abuse in economies close to foreign competition. An important fact of trade liberalization is the introduction of foreign products and technologies that compete with previously protected oligopolies. Thus, strengthening intellectual property rights on the one hand, but maintaining a closed market on the other, is a cross task. In 2010, an OECD study found that increases in IPR protection are associated with foreign direct investment, service imports, and domestic R&D. Many studies show that protecting trade secrets can encourage the development of inventions and valuable knowledge, helping to protect the return on capital invested in creating such innovations. Keith E Maskus argued that trade secrets can replace patents and stimulate innovation. They concluded that trade secrets can help innovators maintain their competitive advantage by promoting profitability and subsequently providing incentives for further investment. The exact economic value of a trade secret right is difficult to know due to the required trade secret law, but some references can be found in the literature. For example, Hogan Lovell shows that companies suffer when trade secrets are compromised. A survey conducted by Baker McKenzie in Europe[17] shows that 75% of respondents considered trade secrets strategically important for their company's growth, competitiveness and innovation. The growing importance of trade secrets can be seen in government initiatives.

In 2012, the European Commission published a road map to improve the initiation of trade secrets and the misappropriation of confidential information by third parties. In 2013, the US administration released a strategy to mitigate the theft of US trade secrets. This includes a number of measures to improve protection domestically and internationally.

1. Focus on diplomatic efforts to protect trade secrets abroad.
2. Promote private sector voluntary best practices to protect trade secrets
3. Strengthen national efforts in the field of law enforcement
4. Let's improve national legislation
5. Public awareness and notification of stakeholders

[15] Intellectual property rights and foreign direct investment.

https://www.iatp.org/sites/default/files/Intellectual_Property_Rights_and_Foreign_Direc.htm

[16] ibid

[17] *Baker and McKenzie, "Study on Trade Secrets and Confidential Business Information in the Internal Market", prepared for the European Commission (EC) in April 2013, available at: https://ec.europa.eu/growth/industry/policy/intellectual-property/enforcement_en.*

In 2013, a report on trade secrets and confidential commercial information in the internal market of the European Commission was prepared; Researchers believe that the importance of trade secrets is constantly growing in the modern global economy. They are the main reason for increasing competitive advantage in all sectors, whether it is an innovative or non-innovative company, regardless of their size. This trade secret protection effectively bridges the gap between copyright and patent protection, the two traditional pillars of intellectual property, whose main purpose is to exploit the results of investment in innovation. In this report, researchers emphasized the need for common legislation to ensure adequate and equal protection against trade secret abuse. The lack of a uniform law can create uncertainty and negativity that affects business behavior. Companies often have to take different measures to protect their trade secrets, depending on the jurisdiction involved. And if every jurisdiction where their trade secrets were violated has an infringement proceeding. This is proven by survey results the ineffectiveness of trade secret protection adversely affects RandD's operations and investments and leads to a decline in sales. Here, the researcher's findings show the importance of trade secrets law in today's market. Ippoldt and Shultz tested the hypothesis that increases the protection of trade secrets:

1. domestic innovative activities that are scaled up according to the measures of the costs and intensity of RandD
2. Expanded international operations

Since 1991, India has followed a policy of globalization and liberalization that encourages foreign companies to come to India and refers to the removal of their trade barriers. It should also be noted that if there is a trade secret law, it lowers the costs associated with keeping the secret and protecting the business. Suppose there is a perfect law that sells trade secrets. In this case, it automatically facilitates business. This allows companies to make more investments.

In E.I.DuPont de Nemours and Co v. Christopher[19] the plaintiff in this case built a chemical factory. Unknown persons hired the defendants to take aerial photographs of a chemical plant under construction. To this end, the defendants took an additional step and rented an airplane to monitor the construction site during the photo shoot. Considering the current situation, if the law does not provide for the protection of trade secrets against theft of trade secrets, during the construction process, the plaintiff would have thought of building a roof over the factory to

prevent aerial espionage, but if there is a law that prohibits aerial espionage, then the price of building a roof over the factory will automatically come, and it will make it easier for business and companies to feel safe when investing. As a result, it offers more opportunities for investment. It is also important to protect the interests of employee recruiters so that

[19] *E.I.DuPont de Nemours and Co v. Christopher* 431 F.2d 1012

[51] Supra n26

company information is effectively protected under the Trade Secrets Act. In the case American Express bank v. Priya Puri[51] Bank has information about customers who have voluntarily provided it and banks can use it for future payment transactions. Employees know the customer list and related information based on their job, not personal skills. Therefore, the use of personal data of employees for future transactions should be limited, which the customer gives to the bank, and not to the employee. If there was a law for protection, the workers would be limited. In addition, if the customer

puppet changes the banking relationship with the bank at any time, the former employee should not have lured away customers. So if there is a special law, the employer would feel safe and spend less on internal secrecy to maintain and promote fair competition.

6. Findings:

India protects trade secrets under common law and legal interpretations of Section 27 of the Indian Contract Act, 1872. The TRIPS Agreement has provisions for the protection of trade secrets, but India did not have specific legislation or regulations for the protection of intellectual property rights. This means that trade secrets are not recognized in India like other intellectual property protection measures. Existing laws, both common law and statutory, are very limited in nature and scope, incomplete and non-positive. In addition, based on the general

survey, it became clear that, regardless of the current positions on the protection of trade secrets, it is mostly negative. To expand the horizons of the national economy, trade secrets need comprehensive protection. And there is also no specific recommendation or guidance in the 2016 National Intellectual Property Rights Policy to enact a Trade Secret Protection Act. But there is hope. The Government of India has taken into account trade secret matters in its policy buildings. The IPR Policy 2016, approved by the Union Cabinet, lays out the road map for the future hope of IPR in India. The main purpose is to promote research and studies for future policy making, including the protection of secret information, including trade secrets. FICCI Federation of Indian Chambers of Commerce and Industry, one of the largest and oldest business apex bodies of India, has proposed to bring the provisions under the legal protection of trade secrets accordingly, so that there are no gaps in their protection. According to the laws of India. It also indicated the urgent need for a special law on trade secrets in India. The absence of a recognizable trade secret regime prevents India from reaping the benefits of innovation and some of the investment that would otherwise result from an internationally harmonized trade secret law. The introduction to trade secrets and intellectual property rights noted that trade secrets are considered one of the most important categories of intellectual property rights. In general, there is a great need to protect it. Trade secrets are commercial and confidential, so they must be protected by strong legal protection. There are three essential steps to establishing a trade secret anywhere in the world: 1) the information is not generally known or readily available (2) the trade secret must have commercial value, (3) the owner makes reasonable efforts to maintain the secret. For clarity and specificity, all model laws should include an exclusion clause listing matters that must be excluded from the trade secret category. Such a provision is necessary for the protection of public interest or national interests, where the protection of investors, owners, companies, entrepreneurs, etc. cannot be compromised. Because; the protection of trade secrets as intellectual property rights must be limited so that trade secrets are properly, fairly and then adequately investigated. Common law trade secret refers to the background and various definitions of common law protection of trade secrets. Breach of confidence law protects against disclosure of confidential information.

The common law then provides for remedies against such breach of duty. Confidential information or trade secrets are protected at common law against disclosure and misappropriation by an employee or former employee, even in the absence of a contractual obligation. Common law applies to fiduciary duty. Anyone who misappropriates another's trade secret can be sued at common law. Although many countries have implemented many civil and criminal laws to protect trade secrets, the common law is still important and comes into play when other laws fail. Although the common law provides effective remedies, it still contains many unsolved problems. They are as follows:

1. Protection of the Common Law is important above all for those problems that immediately arise or from the implementation of existing principles and regulations, but for future problems that even foreseeably arise from similar situations, are not protected by general legislation. they do not allow the general legal system to deal with new types of situations.
2. General law in a certain situation solves every problem, sometimes it can also happen tat when a completely different situation arises, if it is not possible to deal with the existing principles and rules in the previous case, it is necessary to deal with some; of the existing principles and rules or developing completely new principles. (PRINCIPLE OF RESPONSIBILITY AND ABSOLUTE LIABILITY). This is how the common law system works and the law is developed for the prevailing situations. This is the main and only trade secret reason. The rights of intellectual property, wherever there is a common legal system, although they are predictable or predictable, are limited only to the definition of principles and rules. As noted, the common law system itself lacks predictability of problems; it cannot solve the unseen problems of the future. Therefore, trade secret protection under the common law system suffers from an inherent limitation of the existing legal system. They are as follows:

1. There are no standards for maintaining confidentiality .
2. Although springboard training exists, the principle of springboarding is a seated restriction that is not permanent.
3. The common law system is considered ineffective against third party abuse.
4. Not all cases of breach of confidential information have appropriate legal remedies. Protected by the trade secrets of major economies, capital moves easily in and out of the country. Indians go to other country and foreigners also come to India for the same purposes. Thus, while the Indian legal framework is fair and efficient, it cannot

serve all purposes unless it provides strong protection of trade secrets. So when it is suggested that strong and effective protection of trade secrets means protection not only in India but also in other countries.

Thus, it was observed as follows:

1. Definitions of commercial secret given by different countries are similar

2. It is noted that the adoption of national laws based on the guidelines of the TRIPS Agreement, especially for the protection of trade secrets.
3. There are many differences in the definition and scope of trade secrets.
4. Differences can be observed in the application of trade secret protection. Civil law provides the most common remedy against misappropriation of a trade secret and is set out in civil law. Injunctive lawsuits and benefit accounts are two of the most common legal remedies used worldwide.
5. It is necessary to adopt uniform laws protecting trade secrets, such as some countryspecific reasonable and fair exceptions unanimously agreed upon by WTO members. The chapter on Protection of Trade Secrets in India states that:

1. Not a single regulation has been found that deals with the protection of production, defense, trade or business secrets and related issues.
2. Compliance of decisions in the interpretation of Section 27 of the Contract Law is sometimes incomplete.
3. Section 27 does not cover all aspects of trade secrets, only nonjurisdiction clauses.
4. The purpose of Section 27 already differs from the nature of the protection required for a trade secret.
5. The RTI Act, 2005, Competition Act, 2002, IPC 1860 and IT 2000 are not designed solely to combat misappropriation of trade secrets and are therefore ineffective. The chapter on Trade Secrets and Indian Intellectual Property Rights states that TRIPS and WIPO have the same content in protecting confidential information and both international instruments are standard forms followed by most countries around the world. However, India, a member of the United Nations and a signatory to the TRIPS Agreement, does not have strong trade secret protection. When the TRIPS Agreement entered into force on January 1, 1995 in 1995, deadlines were set for many countries to change their domestic laws in accordance with the Travel Agreement. Developed countries received one year, developing countries and countries with an economy in transition five years. , the LDC was granted 11 years to 200 and then extended to 2013 overall and 2016 for drug patents and unpublished data. Unlike patents, however, no deadline has been set for drafting and implementing the Trade Secret Protection Act. As a result, many member states have not yet formulated their domestic laws to protect trade secrets in accordance with the TRIPS Agreement. This was observed as follows:

1. Trade secrets need proper nomenclature and should not be identified as secret or confidential information.
2. Since the special legal act does not aim to protect commercial secrets, the decisions of the judges are not uniform.
3. 2008. The proposal of the National Innovation Act of 2015 covers trade secrets only to a limited extent.
4. Trade secrets must be quickly identified in the framework of intellectual property rights.
5. The objective 3.8.4 of the National IPR policy shows that the government is thinking about a future policy but is reluctant to codify India's trade secret laws because the policy is not intended to legislate. Certain loopholes must be removed from the National Innovation Bill 2008. According to Article 11, the public interest is too broad to be defined. It is also unfair trade secrets paying loyalty under section 12(4). Clause 3 of Section 13, which imposes a condition on the defense of a claim, is in fact contrary to the basic rules of natural law which provide for a fair trial. to take care of possible sanctions in case of misuse of confidential information. The nondisclosure agreement is not drawn up in a standard format, which in turn creates ambiguity. There can also be ambiguity in the editing of the text. It was also noted that there should be some sort of disclaimer. Studies conducted in various parts of the world show that trade secret protection is essential for economic growth. A country that offers effective protection of intellectual property laws, including trade secrets, shows that foreign direct investment in various economic sectors is flourishing.

6.1 SUGGESTIONS:

"Trade secrets" are very vulnerable. Franchisors, master franchisors, developers, subfranchisors and their employees enjoy full access to the franchisor's "trade secrets". Therefore, they are all in an excellent position to compete for the franchisor's market share. Sometimes even potential franchisees receive a lot of valuable information. If any such person leaves the franchisor's network, he or she may become the franchisor's strongest competitor unless the franchisor's

"trade secrets" are adequately protected.- [18]Guriqbal Singh Jaiya Director of the WIPO SME Division. India needs a comprehensive, effective, strong and fair legal framework to protect trade secrets as intellectual property (negative and affirmative protection). If not, it would be too late to take advantage of the emerging advantages with high added value to strengthen India's SCO ECONOMY and encourage and protect trade or business in India. There are many reasons why India needs strong and comprehensive trade secrets legislation. First, the common law protection of trade secrets based on trust law does not cover many important areas, including procedural rules. Second, there is no specific protection in the Indian civil law system for the protection of trade secrets, which means there is no law. There is no trade secret law in its true sense. Various experts have identified various limitations as well as shortcomings in common law. John Borrows (Queen's Counsel; Commissioner, Law Commission of New Zealand; Emeritus Professor, University of Canterbury) noted that "common law" is flexible, based on the practicalities of individual fact situations, is the refined product of the wisdom of many minds, ree from political

influence and relatively stable[19] , but he also pointed out that it has several shortcomings compared to the law. First, it concerns its accessibility

Second, it is ambiguous in many situations (some aspects turned out to be too simple and moral, but some not; some are uncertain). Thirdly, it has been pointed out that the common law is full of hypocrisy and fiction. Fourth, the expert looked at the very limited access of judges in common law cases and the limitations of its use in future cases. It was also found that the incompleteness of legislation and the resulting uncertainty are more important in some places than in others.

7. BIBLIOGRAPHY:

7.1 BOOKS/DICTIONARY/REPORTS/ARTICLES:

- Abhik Guha Roy: Protection of Intellectual Property in the Form of Trade Secrets 2006
- Abhinav Kumar, Pramit Mohanty and Rashmi Nandakumar, Legal Protection of Trade Secrets: Towards a Codified Regime 2006
- Cynthia M. Gayton, "Commercial Satellite Imagery: Confidential Information Knowledge Management and Trade Secret Law" 37 (2) JIKMS 192-206

(2007) John Burrows, "Common Law among the Statutes: The Lord Cooke Lecture 2007" 39 VUWLR 401-418 at 411. 2008

[18] *https://doczz.net/doc/6586996/managing-trade-secrets-in-a-franchising-arrangement-guriq...*

[19] Burrows, John --- "*Common Law among the Statutes: The Lord.*

http://www.austlii.edu.au/nz/journals/VUWLawRw/2008/21.html

- N. S. Sreenivasulu, "Intellectual Property Rights in Trade Secrets: Positive of Sensitive or Confidential Information"
- P. S. Atiya, "Common Law and Statute Law", 48(1) MLR 1-28 at 3-4 (1985) Ranjeet kumar and R,C Tripathi :Trade secrets protection in digital environment :a global perspective 2012.
- Sahil K. Roy Choudhary and H.K. Sahang, Law of Trademark, Copyrights, Patents and Designs Vol. II 610 ,177-179(Kamal Law House, Calcutta, 2nd edn.1999).
- S.K. Verma, 2002: Legal Protection of Trade Secrets &Confidential Information ,2002

7.2 STATUTES:

- Copyright act 1957
- Indian contract act 1872
- Information technology act 2000
- The patents act 1970
- The trade marks act 1999
- Draft National Innovation Act, 2008.
- The Berne Convention for the Protection of Literary and Artistic Works 1886.
- The Competition Act, 2002.
- The Constitution of India, 1950.

7.3 INTERNET SOURCES:

- Law of industrial and intellectual property, http://lawfaculty.du.ac.in/files/course_material/Old_Course_Material/LB-404%20Content%20Intellectual%20Property%20Law%202017.pdf
- http://lawfaculty.du.ac.in/files/course_material/Old_Course_Material/LB-404%20Content%20Intellectual%20Property%20Law%202017.pdf
- Protection of confidential information in India , http://www.escaladelegal.com/Article-PROTECTION.html#:~:text=There%20is%20no%20legislation%20in,expressly%20defines%20'Confidential%20information'.&text=Confidential%20Informationmay%20be%20defined%20as,that%20can%20be%20legally%20protected.
- Addressing the Risks That Trade Secret Protections Pose .... https://www.hhrjournal.org/2021/06/addressing-the-risks-that-trade-secretprotections- pose- for-health-and-rights/
- WTO | intellectual property (TRIPS), frequently-asked .... https://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm

- UNDISCLOSED INFORMATION, UNFAIR COMPETITION AND ANTI COMPETITIVE PRACTICES , https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/modules7_e.pdf
- Article 10bis (Paris Convention) - Harvard University. https://h2o.law.harvard.edu/text_blocks/6554

7.4 LEGAL DATABASES:

- www.heinonlline.com
- www.jstor.com
- www.manupatra.com
- www.scconline.com
- www.westlaw.co