



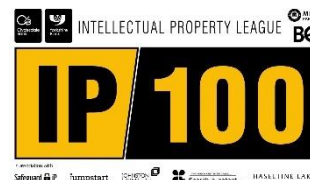
METIS PARTNERS
WIPO PRESENTATION
17 OCTOBER 2017

**SESSION 1: THE RELATIONSHIP
BETWEEN TRADE SECRETS AND PATENT
PROTECTION WHEN AIMING FOR
BUSINESS GROWTH**



WHO WE ARE

- ✦ Recognised IP valuation specialists, with a proven track record in the assessment, monetisation, valuation and sale of IP assets
- ✦ Multi-disciplinary team
- ✦ Offices in San Francisco, Glasgow, London, and Sofia
- ✦ IP100 & IP League Table



WHAT WE DO



**CORPORATE RECOVERY
AND RESTRUCTURING**
MARKET LEADER

IP VALUATION
ACKNOWLEDGED EXPERTS

IP ADVISORY
IAM 300 SPECIALIST

**Distressed
Valuation**

**Insolvent
IP Asset
Sale**

**SIP16
Assure™**

**M&A – Purchase
Price Allocation
(PPA)**

**Fundraising and
Debt
Restructuring**

IP Audit

IP Due Diligence

**IP Strategy &
vCIPO**

Brokerage





AGENDA – TIMESCALES & FORMAT

- ✳ Today's sessions are scheduled to run from 11.45 to 12.30 and from 14.00 to 14.45
- ✳ Interactive sessions – these are intended to be informal discussions, so please participate
- ✳ Questions are welcome at any time, and please tell us if we need to repeat anything



WHAT ARE WE GOING TO COVER?



1

BACKGROUND TO TRADE SECRETS

2

RISE OF TRADE SECRETS

3

ENSURING RIGHT PROTECTIONS IN PLACE

4

CONFIDENTIALITY

5

KEY TAKEWAYS



CLYDESDALE AND YORKSHIRE BANKS IP LEAGUE TABLE



- ⊛ Free to enter – ranking of companies based on rating the quality, management and value of their IP assets
- ⊛ Focus on 5 IP asset classes: brands, software, patents, critical databases and trade secrets
- ⊛ IP100 Club exclusive monthly events for all entrants and sponsors
- ⊛ Small companies with great brands and secret recipes to larger tech companies with 80 patent families, £small to £30m turnover
- ⊛ Geographical split – equal split between Scotland and the rest of the UK
- ⊛ The IP100 community now has over 125 entrant companies, plus dozens of investors, VCs, lenders and service providers (lawyers and CAs)



IP100 2017 REPORT – IP ASSET CLASSES – TOP 20



BRAND & REPUTATION

1	▶	Jones Publishing
2	▶	Adrok PGM
3	▶	Dogtag
4	▶	Metall
5	▶	M Squared
6	▶	Encompass Corporation
7	▶	Standard Life Employee Services
8	▶	Data Conversion Systems
9	▶	RimPro-Tec
10	▶	Digitonic
11	▶	WeeWorld (WW FQ)
12	▶	Intelligent Plant
13	▶	P2i
14	▶	MuJo Mechanics
15	▶	Connect-In
16	▷	Sphere Fluidics
17	▶	Spot Seven (Mativision)
18	▶	20 20 Business Insight
19	▶	CompanyNet
20	▶	COREX (UK)

PATENTS

1	▶	P2i
2	▷	Lifescaped
3	▶	M Squared
4	▶	Adrok PGM
5	▶	Wearable Technologies
6	▷	Sphere Fluidics
7	▶	Cleansorb
8	▶	Deep Tek Winch IP
9	▶	Kromek
10	▶	WheelRight
11	▶	Dmista Research
12	▶	COREX (UK)
13	▶	Heald
14	▶	Metall
15	▶	Mussett Engineering (6t9 Technology)
16	▶	Toshiba Medical Visualization Systems
17	▶	Payfont
18	▶	MuJo Mechanics
19	▶	LUX Assure
20	▶	Kids Innovations Development

SOFTWARE

1	▶	Spot Seven (Mativision)
2	▶	Adrok PGM
3	▶	Kromek
4	▶	Appointedd
5	▶	Synoptica
6	▶	CC Technology
7	▶	Miituu
8	▶	CompanyNet
9	▶	Metall
10	▶	Stevenson Astrosat
11	▶	Grid Smarter Cities
12	▶	SoDash (Winterwell Associates)
13	▶	MindGenius
14	▶	P2i
15	▶	FusionExperience
16	▶	Dogtag
17	▶	Connect-In
18	▶	Kegsoft
19	▶	K2L
20	▶	Torion JVG





IP100 2017 REPORT – IP ASSET CLASSES – TOP 20

TRADE SECRETS

1	▶	Stevenson Astrosat	▶	11	Digitonic
2	▶	LUX Assure	▶	12	P2i
3	▶	COREX (UK)	▶	13	Toshiba Medical Visualization Systems
4	▶	Spot Seven (Mativision)	▶	14	20 20 Business Insight
5	▶	M Squared	▶	15	Sphere Fluidics
6	▶	WFS Technologies	▶	16	Torion JVG
7	▶	Kromek	▶	17	Data Conversion Systems
8	▶	FusionExperience	▶	18	Cytomos
9	▶	Good-Loop	▶	19	Visual Products (Visorcat)
10	▶	Smith & Sinclair	▶	20	UWI Technology

CRITICAL DATABASES

1	▶	Digitonic	▶	11	Worldteachers Recruitment
2	▶	Miituu	▶	12	Adrok PGM
3	▶	Metail	▶	13	Desktop Genetics
4	▶	Stevenson Astrosat	▶	14	Synoptica
5	▶	Global Surface Intelligence	▶	15	TTS Pharma
6	▶	LUX Assure	▶	16	Redu Group
7	▶	CompanyNet	▶	17	Good-Loop
8	▶	Appointedd	▶	18	M Squared
9	▶	Toshiba Medical Visualization Systems	▶	19	WheelRight
10	▶	Lexus International	▶	20	COREX (UK)





IP100 STATS

- ★ 46% of scored entrants have Trade Secrets monetised > 50% of turnover is reliant on the TS's
- ★ 18% of scored entrants have an official fully implemented Trade Secrets policy
- ★ 15% of scored entrants have a documented process for identifying /capturing/recording TS's
- ★ 4% of scored entrants licensed their Trade Secrets

There's clearly room for improvement amongst even IP savvy IP100 companies!





WHAT IS A TRADE SECRET IN ITS SIMPLEST FORM?

Information, critical to a company's competitive advantage, which a business would not want a member of staff "putting on a USB stick and approaching a competitor with."



EXAMPLES OF TRADE SECRETS?

Trade secrets are intangible assets which can exist in various forms:

- ✦ Databases
- ✦ Algorithms
- ✦ Software
- ✦ Technical attributes of a piece of equipment (e.g. design)
- ✦ Methodologies
- ✦ Recipes, ingredients, formulations in a product
- ✦ And more...



TRADE SECRETS PROTECTION

“It is crucial to have a trade secrets policy, protocols, and password protections in place.

Most importantly an effective trade secrets policy needs to be recognised by all staff and embedded within the ‘IP culture’ of a business.”



















TS Valuation...

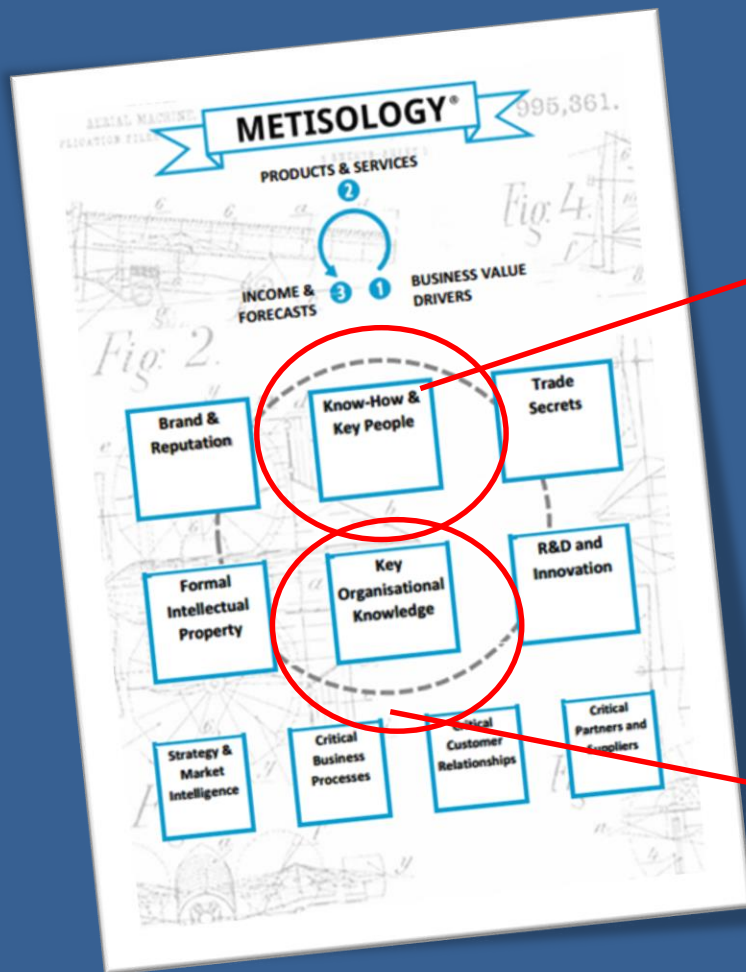
- ✳ Brands
- ✳ Patents
- ✳ Software
- ✳ Technical/manufacturing specifications
- ✳ Databases (customer/technical)
- ✳ Website and domains
- ✳ Trade secrets



STEPHEN ROBERTSON

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TRADE SECRETS INTERACT AND OVERLAP WITH OTHER IP ASSET CLASSES



Know-how takes the form of knowledge and expertise which exist in the minds of a few key people within an organisation and is not widely shared or captured in written form.



TRADE SECRETS



Organisational knowledge is individual and/or company know-how which has been captured and codified in written form, and can be shared across the breadth of an organisation.

TRADE SECRETS ARE KNOWN TO KEY STAFF – IP ASSETS OR RISKS?

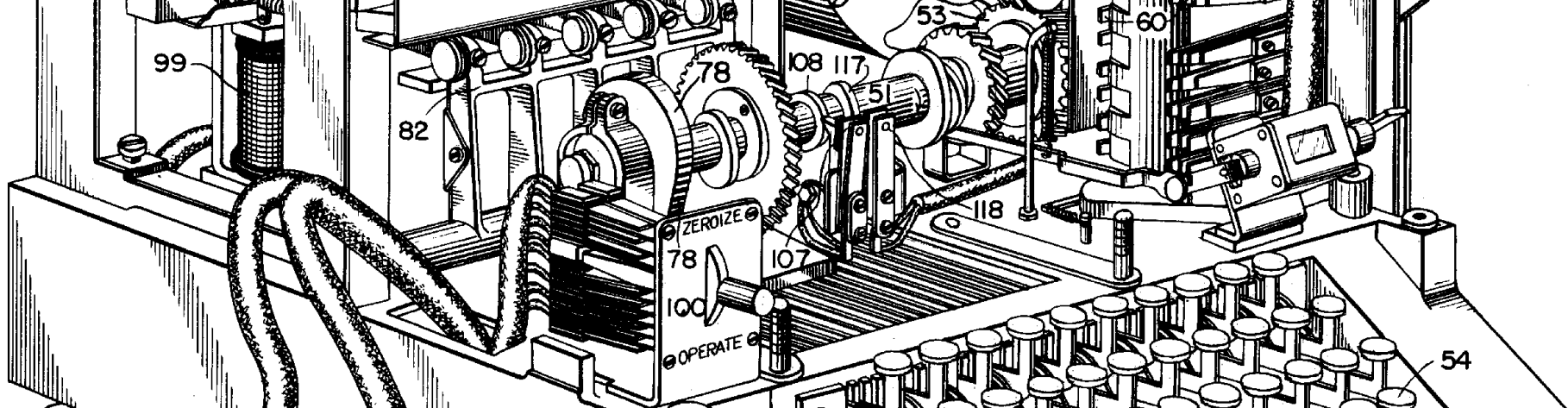
- ★ **50%** of employees who left/lost their jobs **kept confidential information**
- ★ **40%** plan to use previous employers IP **in their new jobs**
- ★ **68%** said their employer did nothing to acknowledge confidential competitor trade secrets

Based on a 2013 survey conducted by Symantec Corporation



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SURVEY BY BAKER & MCKENZIE (2017) – “PROTECT AND PRESERVE: THE RISING IMPORTANCE OF SAFEGUARDING TRADE SECRETS”

- ✪ 80% senior executives say trade secrets are critical part of their business, while 60% say protecting their trade secrets is a board-level issue.
- ✪ 20% companies think or know that they have had trade secrets stolen.
- ✪ 35% companies maintain TS inventory & have an action plan for responding to trade secret theft.
- ✪ 66% executives report that theft by ex-employees and suppliers is the biggest source of their anxiety.

The rising awareness of the importance of trade secrets is significant, but it's only the first step of the process. It's important that corporate leaders appreciate the magnitude of their responsibility.



BROAD DEFINITION

A broad definition of trade secrets in an international context is contained in Article 39 of the **TRIPS Agreement** for “undisclosed information”, being information which:

- ✦ Is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- ✦ Has commercial value because it is secret;
- ✦ Has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

The definition will be in the **EU Trade Secrets Directive** to standardise national laws in EU countries against the unlawful acquisition, disclosure, and use of trade secrets (effective 9 June 2018).





DISCLOSURE SENSITIVITY AWARENESS

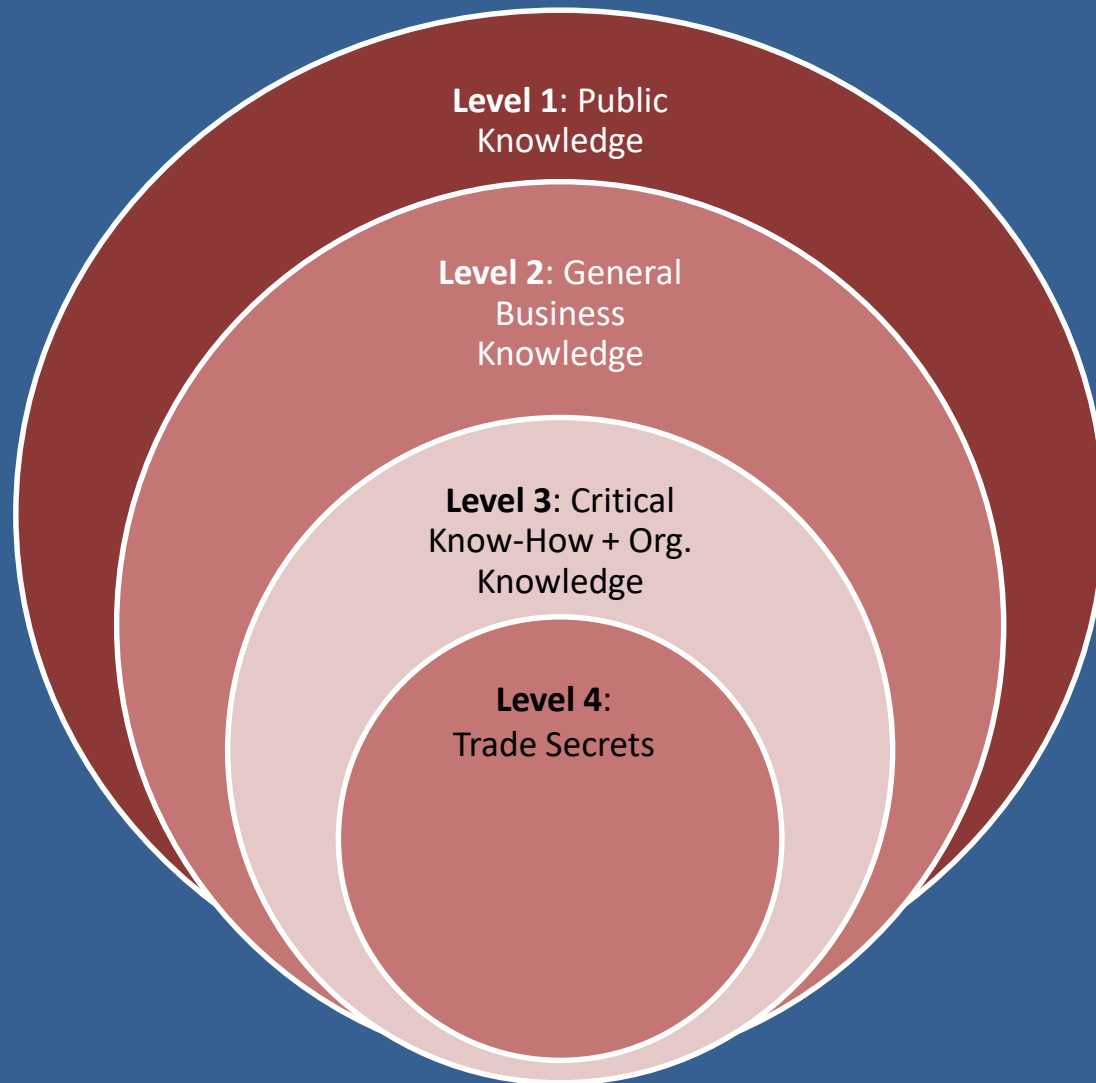
It is crucial that you are able to distinguish general know-how and organisational knowledge from critical know-how/organisational knowledge which may warrant protection as a trade secret.

- ✳ How do you distinguish trade secrets from other IP?
- ✳ Trade secrets vs. patents
- ✳ How do you conduct disclosure sensitivity awareness?

We will cover all of this in the next few slides



HOW DO YOU KNOW WHAT CONSTITUTES A TRADE SECRET?



HOW DO YOU DETERMINE DISCLOSURE SENSITIVITY – THE BASICS

General Business Information – Confidential Information – Trade Secrets

DISCLOSURE SENSITIVITY AWARENESS GUIDE



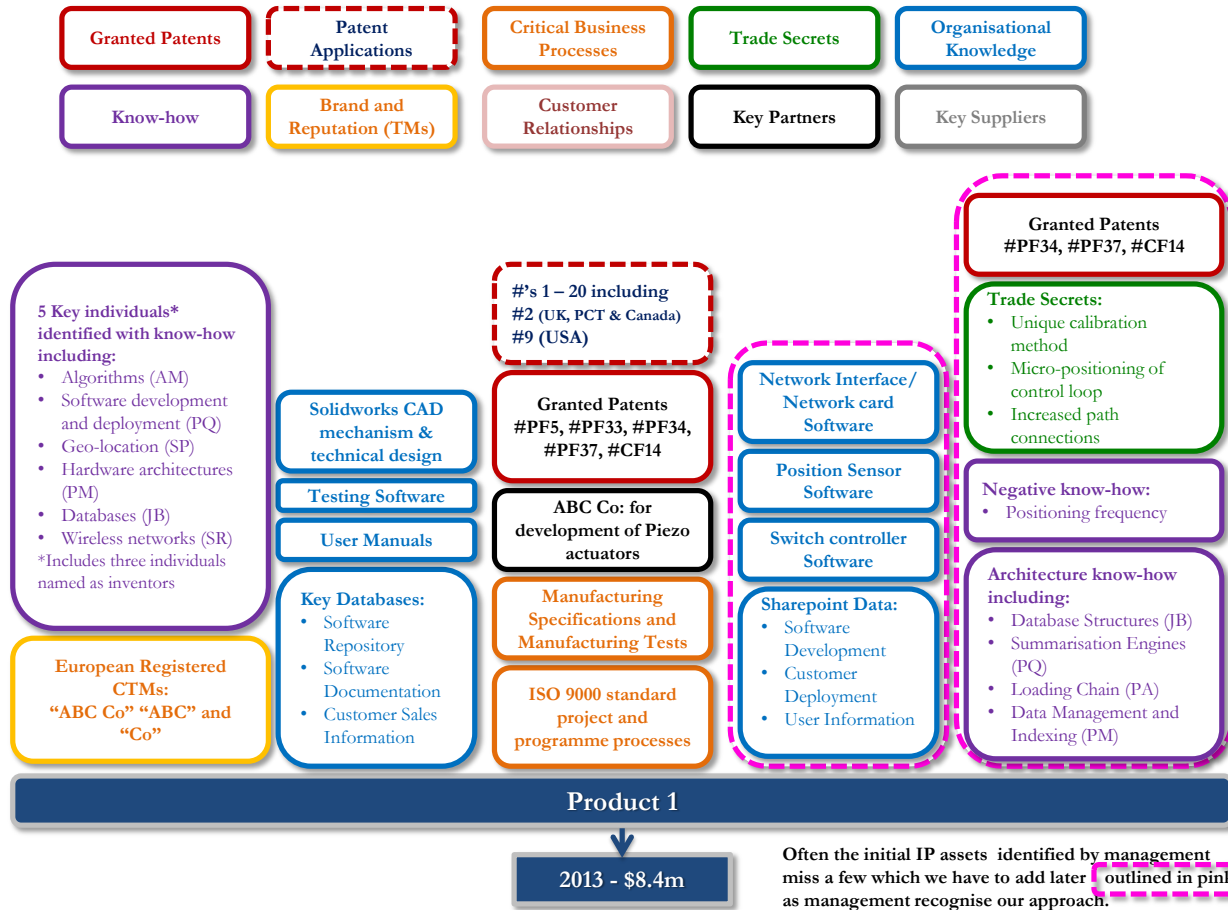
POTENTIAL TRADE SECRET PITFALLS

There is a reasonable degree of risk associated with trade secrets:

- ✦ Trade secrets are not formally registered, so their existence can be disputed within a contentious scenario
- ✦ Different legal systems take different approaches and views on the value, protections and infringement of trade secrets
- ✦ Despite NDAs and security measures, trade secrets are particularly susceptible to theft because they are often made easily accessible to a large number of staff
- ✦ Trade secrets can often be transferred both internally as well as externally, i.e. joint-ventures, collaborations, contract-research and manufacturing activities



EVEN MANAGEMENT STRUGGLE TO IDENTIFY IP ASSETS AT FIRST



What an IP Audit reveals!

KEY TAKEAWAYS



(1) WHAT ARE TRADE SECRETS?

Think about the “USB stick analogy” to begin identifying potential trade secrets



(2) HOW ARE THEY CURRENTLY USED or SHARED?

Trade secrets can potentially be leaked and consequences could be severe



(3) MEASURES TO MITIGATE LEAKAGE

Policy and procedures should be put in place. Management must be mindful of implementing these





QUESTIONS?



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