

Rights and requirements

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There are a number of ways of obtaining the various intellectual property rights and the requirements for doing so can vary. Some rights are obtained by registration, while others are created by statute or arise at common law. The scope of rights can vary, and each intellectual property asset can be supported by more than one type of intellectual property right.

Trade Secrets and Confidential Information

Trade secrets and confidential information cannot be registered. However through the action of breach of confidence, the courts will stop the dissemination of information which is confidential and which was disclosed to a person when that person knew or ought to have known that the information was disclosed in confidence. This extends to information wrongly disclosed to third parties and information obtained through industrial espionage.

It is based on the concept that those who receive information in confidence should not be able to take unfair advantage of it. The obligation of confidence exists until the confidential information reaches the public domain, when it becomes free for all to use.

There is an exception. Once someone has received confidential information that person cannot, if and when the information does become publicly available, exploit any advantage he or she may have gained over other members of the public by virtue of having advance notice of the former "secret". The court may prevent someone in this position from taking advantage

of such information for a period of time or even permanently. Proceedings for breach of confidence are commonly issued in the High Court, but cases arising out of employment relationships may be brought in the Employment Relations Authority and the Employment Court.