The EU Trade Secrets Directive: protecting your rights under the new system

Intellectual Property and Technology News

30 MAR 2018

By:

Trade secret protection is a company must-have, no less vital than protecting your patents, design rights or trademarks. Yet in Europe, for many years, trade secret protection was not as advanced as protection for other IP rights and varied significantly across the European Union.

The landscape is about to change. In 2016, the EU took steps to harmonize EU law, to ensure businesses can protect their innovative work and preserve competitive gains, by adopting the Trade Secrets Directive, which each member state must implement by June 9, 2018. The Directive contributes to the commitment to create a single market in the EU for intellectual property rights. Although individual member state action is still unclear, what is certain is that companies doing business in Europe must act now to ready themselves for this important reform.

Top changes
The Trade Secrets Directive creates a baseline minimum level of protection which every member state must institute. It starts by setting out a **uniform definition of a trade secret**: any information that is secret (not generally known among or readily accessible to persons within the relevant circles of trade) and has commercial value because it is secret. The definition thus extends beyond more classic trade secrets like construction drawings or recipes, and may include negative information like known product defects or company code of conduct violations.