Protecting Your Trade Secrets in China
Prevention is the key to protection.

WHAT EXACTLY CAN BE A TRADE SECRET

1. SOMETHING THAT has commercial value and is not publicly known.

2. EXPRESSIONS OF IDEAS, such as know-how, manufacturing or design techniques.

3. YOU TOOK MEASURES TO KEEP SECRET.

TRADE SECRETS

- Status of product or service under development
- Valuable business information, lists, costs, and prices information

KEEP IT SECRET, KEEP IT SAFE

It is important to remember that once trade secrets become publicly known, they can no longer be protected as trade secrets.

DON'T FORGET YOUR EMPLOYEES

- Limit access and copying rights to the person who actually needs it.
- Require all employees to sign an employment agreement with strict confidentiality provisions.
- Be sure to hold exit interviews and have them return documents, materials, computers, and files.
- Establish an internal management system for trade secrets. Training and clear written guidelines are essential.

DEALING WITH THIRD PARTIES

Business dealings or negotiations with third parties, potential partners, suppliers, contractors, licensees, or customers

- Negotiate the rights to make unauthorized visits and to conduct periodic audits in your agreement.
- Monitor your partners, suppliers, or licensees to make sure they are complying with your trade secrets protection policy.
- Insist that both parties sign a mutual non-disclosure agreement before any discussions begin or documents are transferred.

WHAT TO DO WHEN YOUR SECRET IS OUT

Conduct an internal investigation and preserve as much evidence as possible:

1. DOCUMENTS
2. E-MAILS
3. EMPLOYEES

LITIGATION

- Litigation is the primary means by which you can pursue a remedy for the misappropriation of your trade secrets in China, in order to increase the chance of success direct evidence is to prove:

- 1. You have and own the trade secret in question
- 2. There is a finding that the defendant possesses information that is identical or substantially identical to your trade secret
- 3. That the defendant, used infringing means to obtain it

In addition to court, an application can be made to the local Administration for Industry and Commerce (AIC).

If you believe the theft of your trade secrets constitutes a crime, you can also inform the local Public Security Bureau who can then decide whether or not to conduct a criminal investigation.

HELPLINE

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