

What is a Trade Secret

The following presentation is a clip from a panel event, “Intellectual Property and Entrepreneurship in Canada” hosted on March 23, 2021 by the University of Toronto Munk School of Global Affairs and Public Policy.

SHIRI: If you don't mind telling a little bit of our audience what's the difference between a PCT. They're asking, what is a PCT? What is a trade secret? Maybe some, not in-depth, but just...

RYAN: Sure. And I will preface this by saying I am a United States-trained lawyer and patent practitioner. And so, I might use US-based vocabulary that may not be applicable in Canada, but I'll do my best.

So a trade secret is not something that you register, that would defeat the purpose of the secret actually. And so, the common example is the recipe for Coca-Cola. The recipe for Coca-Cola sits in a vault, I believe in Atlanta. And it's only known to a few people. And the protection on it is that it is a secret and you don't disclose it and you don't register it.

The advantage of that is it can be protected that way indefinitely. You'd never have to disclose it to anybody so no one will ever figure out the secret recipe. The disadvantage is, if someone comes up with it on their own, you have no protection over it.

In the United States in particular, there was a lot of reform around federal protection for trade secrets. And so it can be quite powerful to raise allegations of trade secret theft in combination with other claims. But the use cases for it, in order to have a trade secret, it needs to actually be a secret. So you need to have confidentiality, it needs to only be known to a few people. The fact that it's a secret itself needs to be valuable. So, it's another type of IP. It's not one that's often thought about. But it can be useful in certain circumstances.

The other question I believe was, what is a PCT? And a PCT is a type of, for lack of a more in-depth answer, it's an international patent application process. So you can get coverage, as you step through the process you can get coverage in multiple different countries at the same time essentially. You go through a PCT phase and then you move into, if I remember correctly, different national phases. And so you get your patent protection, from one application you can branch out into a lot of different places. And so it's more efficient and there can be some priority advantages to doing it that way too.

Many thanks to the speakers:

- *Shiri Breznitz (Moderator)*—Director, Master of Global Affairs Program and Associate Professor, Munk School of Global Affairs & Public Policy, University of Toronto
- *Seray Çiçek*—Co-Founder & CEO, LSK Technologies Inc.
- *Ryan Hubbard*—Senior Counsel, IP Litigation, Shopify

- *Graeme Moffat*—Chief Scientist and Co-Founder, System 2 Neurotechnology and Senior Fellow, Munk School of Global Affairs & Public Policy, University of Toronto