

THE EU TRADE SECRETS DIRECTIVE

- Transposition into national laws
- Protective measures
- Litigation

Brussels, 6 December 2018

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EXPERTISE



Speakers

Emmanuel Gougé

Solicitor (England & Wales), Partner, Pinsent Masons, Paris

Sam Granata

Judge, Court of Appeal, Antwerp, and the Benelux Court of Justice, Luxembourg

Søren Hessellund Klausen

Partner, IUMO, Copenhagen

Ralph Nack

Partner, Noerr, Munich

Jorge Novais Gonçalves

Policy Officer, DG GROW, European Commission, Brussels

Clare Robinson

Partner, Osborne Clarke LLP, Bristol

Bruno Vandermeulen

Partner, Bird&Bird LLP, Brussels

Key topics

- Update on transposition and main changes brought to selected national laws
- Avoiding disclosure by putting in place efficient preventive measures
- How to distinguish in practice between lawful and unlawful acquisition of trade secrets?
- Measures, procedures and remedies: how does the EU Directive change trade secrets litigation?

Language
English

Event number
218D49

Organiser
Florence Hartmann-Vareilles
(ERA)



With the support of the Erasmus+ programme of the European Union

THE EU TRADE SECRETS DIRECTIVE

Thursday, 6 December 2018

08:30 Arrival and registration of participants

09:00 **Opening of the seminar**
Florence Hartmann-Vareilles

I. THE EU TRADE SECRETS DIRECTIVE: SETTING THE SCENE

09:15 **Overview of the Trade Secrets Directive and its transposition into Member States' national law**
Jorge Novais

09:45 Discussion

10:00 **Main changes brought to national laws**
Belgium: *Bruno Vandermeulen*
Denmark: *Søren Hessellund Klausen*
France: *Emmanuel Gougé*
Germany: *Ralph Nack*
UK: *Clare Robinson*

11:40 Discussion

12:10 Coffee break

II. LITIGATING BEFORE NATIONAL COURTS: IMPACT OF THE EU TRADE SECRETS DIRECTIVE

12:40 **Measures, procedures and remedies: how will the EU Directive change trade secrets litigation?**

- Balancing test between confidentiality and disclosure in court proceedings
- Injunctions, precautionary measures and safeguards against abuse
- Legal costs: can the EU Enforcement Directive be applied by analogy?
- Alternative dispute resolution as an option instead of litigation?

Sam Granata

13:10 Discussion

13:20 Lunch

Objective

June 2018 was the deadline for EU Member States to implement the Trade Secrets Directive, which seeks to harmonise the minimum standards of protection for trade secrets across the EU. Whereas the Directive has been transposed into some Member States' legal orders, implementation has not yet occurred in all. Since June, the wording and the goals of the Directive must be observed when national law is applied. Legal practitioners therefore need to know the main changes brought by the EU Directive and to adapt their practice to the new requirements.

Who should attend?

Lawyers in private practice, in-house counsel, judges, representatives of national ministries

You will learn...

- Which Member States have transposed the EU Trade Secrets Directive?
- What are the main changes brought to national laws in key jurisdictions?
- How to protect trade secrets efficiently?
- What are the new burdens and the new rights for trade secrets owners?
- What can be argued by parties in court proceedings according to the new provisions?
- How to prepare for litigation?

Your contact persons



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III. PREVENTIVE MEASURES TO SAFEGUARD TRADE SECRETS AGAINST DISCLOSURE

14:30 **Delineation between lawful and unlawful acquisition and use of trade secrets: a matter of good/bad faith?**

- Independent discovery or creation, reverse engineering and honest commercial practices
- Distinction between knowhow and experienced employee
- Breach of contract and law on unfair competition as the best options?
- Whistleblowing: does the Directive limit the freedom of expression?
- Public interest and disclosure: can it be a threat for employees?

Søren Hessellund Klausen and Ralph Nack

15:30 Discussion

15:50 **Protecting trade secrets efficiently against misappropriation:**

- Identifying the elements constituting a trade secret
- Big data and trade secrets
- Trade secret/patent valuation and due diligence
- Putting in place new contractual arrangements
- Creating legal, physical and technical safeguards
- Preparing action plans in case of misappropriation

Clare Robinson

16:10 Discussion

16:30 Coffee break

III. THE TRADE SECRETS DIRECTIVE PUT INTO PRACTICE

17:00 **Case scenario: how to prepare for litigation?**

Emmanuel Gougé

17:45 Discussion

18:00 End of seminar day

18:15 Reception

CPD

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Save the date

Annual Conference on EU Law in the Pharmaceutical Sector 2019
Brussels, 21-22 February 2019

Annual Conference on EU Trade Marks and Designs 2019
Trier, 28-29 March 2019

Summer Course on European Intellectual Property Law
Trier, 1-5 July 2019

e-Presentations

Recent CJEU Judgments on EU Copyright Law (2016-2017)
Maciej Szpunar

The Sale of Used Software Undergoing the Exhaustion Test
Adam Rendle

The Way Forward After Adoption of the EU Regulation on Cross-border Portability of Online Content (Regulation (EU) 2017/1128)
Mirena Pencheva

Recent Judgments of the CJEU on Designs
Dr Henning Hartwig

www.era.int/elearning

Registration

THE EU TRADE SECRETS DIRECTIVE

Brussels, 6 December 2018 / Event Number: 218D49



Registration

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E-mail: info@era.int

Online registration:
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Location

Rue de l'Aqueduc 118
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Language

English

Contact Person

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Hotel recommendations

Four Points (Sheraton) Hotel

www.fourpointsbrussels.com
E-mail:
fourpoints.brussels@starwoodhotels.com

Manos Stephanie Hotel

www.manosstephanie.com
E-mail: stay@manosstephanie.com

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Evening programme: I shall attend the function on 6 December 2018 (at no extra charge).

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Fee	Standard	EU & ERA patrons*	Young lawyers & other groups**
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Registration after 6 November 2018	€ 490.00 <input type="checkbox"/>	€ 294.00 <input type="checkbox"/>	€ 367.50 <input type="checkbox"/>

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