



European
Commission

Conference

Trade Secrets:

Supporting Innovation,
Protecting know-how

29 June 2012

Charlemagne Building, Rue de la Loi 170, 1000 Brussels

PROGRAMME

Internal Market
and Services

INTRODUCTION



Dear conference participant,

Trade secrets, also often referred to as “confidential business information”, are an important strategic asset for many European companies.

As a result of laborious and costly research, decades of experience and presence in a particular market, companies find themselves in the possession of unique information and knowledge which enables them to compete successfully in the marketplace. This helps them to perform by being better, faster or more cost-effective than their competitors. The “know-how” so acquired is particularly valuable to companies. It can indeed offer significant advantages if its owner succeeds in using the results of its innovation efforts while competitors strive to catch up with the same, similar or alternative solutions. Thus the management of trade secrets, along with intellectual property rights (such as patents, trademarks, designs, etc.), is key in achieving competitiveness gains linked to innovation and excellence.

The information society promised by the advent of the digital technology age is increasingly a reality. Huge amounts of data can be captured and transmitted across the planet in seconds and at zero cost. Additionally, in a globalised economy it is crucial to seek synergies and build business alliances. Outsourcing, sub-contracting and expertise consulting are now widely used. These forms of business cooperation imply sharing strategic information and knowledge. However, such information will only flow in a trusted environment. An adequate level of protection of know-how, together with effective means of redress, can help to ensure that competition remains fair and reinforces the confidence that businesses need to have when investing in, and allocating resources to, research and development in this networked global economy.

On 13 January 2012, the Commission published a study on the legal protection of trade secrets⁽¹⁾. The study provides a snapshot of the EU national legal framework on the protection of trade secrets.

Building on the results of this first study, the Commission has launched an in-depth, Europe-wide, analysis of the economic significance of trade secrets (including for small and medium-sized enterprises). This will assess their role in complementing patents, and above all their importance in driving innovation, that will create sustainable growth and jobs within the EU. It will also assess the possible adverse socio-economic effects of the current fragmented EU legal framework for their protection and thus assess the extent of the potential gains to be achieved by launching internal market initiatives in this field.

Today’s conference marks the beginning of this important exercise. It will gather a wide range of economic and legal experts as well as representatives from companies and business organisations, to debate trade secrets. I want to thank you personally for taking part in this debate.

I very much look forward to the results of your fruitful discussions.



Michel Barnier

⁽¹⁾The study is available at http://ec.europa.eu/internal_market/iprenforcement/documents_en.htm#bgdoc2

PROGRAMME

08:30 – 09:30

Registration and welcome coffee.

09:30 – 09:40

OPENING SPEECH

by Pierre Delsaux (Deputy Director General, DG Internal Market and Services).

09:40 – 09:50

TRADE SECRETS AND EU POLICY by Jean Bergevin (Head of Unit – Fight Against Counterfeiting and Piracy, DG Internal Market and Services).

09:50 – 10:30

MISAPPROPRIATION OF CONFIDENTIAL BUSINESS INFORMATION – A CHALLENGE FOR COMPANIES IN THE EU? By Alain Berger (Alstom), Patrick Schriber (DuPont de Nemours) and Patrick Ozoux (Michelin) and John Ulliman (AMSC).

10:30 – 10:45

THE LEGAL FRAMEWORK IN THE EU by Sarah Turner (Hogan Lovells).

10:45 – 11:00

PROTECTION OF TRADE SECRETS THE GLOBAL PERSPECTIVE by Lorenzo de Martinis (Baker & McKenzie).

11:00 – 11:15

Coffee break.

11:15 – 12:15

ROUNDTABLE 1

ENFORCING TRADE SECRETS AGAINST MISAPPROPRIATION; moderated by Alexander von Mühlendahl (Bardehle Pagenbergr); with Dr. Björn Kalbfus (Gleiss Lutz); Dr. Michael Fammler (Baker & McKenzie), Robert Anderson (Hogan Lovells) and Emmanuel G. Baud (Jones Day).

12:15 – 12:45

THE ECONOMICS OF TRADE SECRETS, by Dr. Thomas S. Respass (Baker & McKenzie)

12:45 – 14:15

Lunch break.

14:15 – 15:15

ROUNDTABLE 2

TRADE SECRETS, INNOVATION AND COMPETITIVINESS moderated by Allen N. Dixon (IIPTC), with Dr. Thomas S. Respass (Baker & McKenzie); Simon Cheetham (China IPR SME Helpdesk) and Ruben Bonet (Fractus).

15:15 – 15:45

SURVEYING THE INDUSTRY: PRESENTATION OF METHODOLOGY, by Prof. Luigi Alberto Franzoni, (University of Bologna)

15:45 – 16:30

General Debate.

16:30 – 17:00

CLOSING REMARKS

CLOSING REMARKS: WHAT NEXT? by Jean Bergevin (Head of Unit – Fight Against Counterfeiting and Piracy, DG Internal Market and Services).

SHORT BIOGRAPHIES OF INVITED SPEAKERS

Alain F. Berger

Alstom, VP European Affairs and Head of Brussels office

Alain F. Berger is in his current position since 2008. He joined Alstom in 1999 occupying the following positions: President of ALSTOM China, based in Beijing (2003 – 2007), Senior Vice President, Commercial & Sales of Hydro Power Business of ALSTOM worldwide (2001 – 2003) Senior Vice President, International Operations, Latin America (1999).

Mr Berger graduated from HEC and received his MBAs from McGill University (Canada) and ESADE (Spain). Prior to Alstom, Alain F. Berger occupied the following positions:

- International Business Development Director of CAMPENON BERNARD SGE (dedicated to the civil engineering & construction of major infrastructure projects).
- Deputy Director and then International Commercial Director of CEGELEC (Alcatel Alsthom Group)
- Marketing Vice President of CEGELEC's subsidiaries in the USA
- in 1982 Mr Berger founded his private company in the Dominican Republic and assumed the CEO position
- 1981 to 1982 -Trade Attaché at the French Embassy in Santo Domingo, Dominican Republic.

Dr. Alexander von Mühlendahl,

J.D., LL.M. (Northwestern Univ.)

Bardehle Pagenberg, Attorney-at-Law

Attorney-at-Law, BARDEHLE PAGENBERG, Munich, Germany, since 2005;

Visiting Professor, Queen Mary, University of London;

Munich Max Planck Institute for Intellectual Property Law, 1966-1979;

German Federal Ministry of Justice, 1979-1994;

Vice-President of the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM), 1994-2005;

Honorary Member of ECTA, Honorary Member of the Hungarian Trademark Association;

One of the original members of the IP Hall of Fame.

Member of the Scientific Committee of the European Commission for designations of origin and geographical indications for agricultural products and foodstuffs and for food specialities; member of the Conseil d'administration of CEIPI, Strasbourg; member of the Advisory Council of the Centre for Commercial Law Studies, Queen Mary, University of London; member of the Advisory Board of IIC, the International Review of Intellectual Property and Competition Law, member of the Fachbeirat of MarkenR - Zeitschrift für deutsches, europäisches und internationales Kennzeichenrecht.

Allen N. Dixon,

IIPTC, Intellectual Property Counsel

Allen N. Dixon is a leading lawyer and international specialist in the intellectual property and information technology field, having worked on three continents and advised high technology and other industries in various capacities for more than 25 years. He worked in General Counsel and Assistant General Counsel positions in technology companies in Asia, the US and Europe between 1986 and 1994. He was European Counsel and Partner at the private law firm Covington & Burling in London, England, from 1994 through 1999, representing companies in the technology industry. From 2000 to 2005 he served as Executive Director and General Counsel of the international recording industry association IFPI in London.

Since 2005 Allen N. Dixon has run the IIPTC consultancy concentrating on intellectual property and high-technology issues. He is a specialist editor of the major UK copyright law treatise, Copinger & Skone James on Copyright, and speaks and writes regularly on technology and intellectual property matters.

Dr. Björn Kalbfus

Gleiss Lutz, lawyer

Dr. Björn Kalbfus is a lawyer with the Munich office of Gleiss Lutz. He advises on unfair competition, trademark and IT law. His practice focuses inter alia on trade secret protection, with a particular emphasis on infringement litigation. He recently published a detailed legal analysis on the need for reform of trade secret protection in Germany. The analysis encompasses a discussion of the economic foundations of trade secret protection as well as a critical review of the legal instruments and remedies available to safeguard the trade secret owner's interests. It concludes with a proposal for a comprehensive Trade Secret Act which takes account of the various suggestions for improvement and incorporates them in a coherent draft piece of legislation.

Björn Kalbfus studied law at the Universities of Berlin and Passau. He is a member of the German Association for the Protection of Intellectual Property and Copyright (GRUR) and of the International Association for the Protection of Intellectual Property (AIPPI).

John Ulliman

AMSC; Vice President, Government Programs

Mr. Ulliman joined AMSC in October 2006. He is responsible for AMSC's government business including business development, legislative affairs and management of the maritime business. Mr. Ulliman joined American Superconductor from Northrop Grumman Corporation where he served in various executive capacities and most recently as Corporate Marketing Director. From 2001 to 2005, Mr. Ulliman served in Northrop Grumman's \$3 Billion Ingalls Shipbuilding Sector as head of Business Development and Government Affairs and then as Program Director of the Integrated Power Systems for the U.S. Navy's DDG 1000 class destroyer.

Prior to joining Northrop Grumman in 1993, Mr. Ulliman served as Manager of Strategic Planning at General Electric's Space Division (now Lockheed Martin) and Manager of Marketing and Programs at B.F. Goodrich Aerospace. He began his career at General Electric Company working for the company's energy, electric distribution and aviation businesses. Mr. Ulliman earned a BS in Engineering from Purdue University.

Lorenzo de Martinis

Baker & McKenzie, Partner

Lorenzo de Martinis is Principal and coordinator for Italy of Baker & McKenzie IP and IT Practice Group; specialized in IP and IT contracts and dispute resolution, IPRs enforcement, outsourcing. Lorenzo addresses all aspects of IP acquisition, protection, enforcement and exploitation. His area of expertise includes trade secrets, confidential information, patents, trade marks, copyright and design; he routinely represents clients before courts, especially in cross-border patent, trademark and copyright protection. Lorenzo is also active in the planning, implementation and maintenance of anti-counterfeiting and enforcement programs and manages multi-jurisdictional IP projects.

Lorenzo lectures on IP issues at MBA programs at University of Bologna (Italy) and Bocconi University of Milan and regularly holds seminars in his specialization areas. Lorenzo de Martinis holds a J.D. cum laude (University of Pisa - Italy), a Master of EC Law (University of Amsterdam) and an LL.M. (University of Pennsylvania).

Prof. Luigi Alberto Franzoni

University of Bologna, Professor of Public Economics

Prof. Franzoni is full Professor of Public Economics at University of Bologna (Italy), specialized in the economics of Intellectual Property Rights and law enforcement and one of the leading European academic scholars in Law and Economics. He has co-authored the most important Italian introductory book on law and economics. Prof. Franzoni teaches also at the School of Economics of the University of Bologna and in IP Master Program of WIPO (Turin) and is Director of PhD program of the international "European Doctorate in Law and Economics" (Bologna, Hamburg, Rotterdam, Mumbai).

Prof Franzoni has authored several publications on the theory of trade secrets and IP protection, holds a Degree in Economics from University of Bologna, a D.Phil. in Economics (Nuffield College, Oxford), an MA in Economics (Warwick University), a Doctorate in Public Finance at the University of Pavia (Italy) and is co-founder of the Italian Society for Law and Economics.

Dr. Michael Fammler

Baker & McKenzie, Partner

The area of practice of Michael Fammler covers general intellectual property law – advice and litigation – trademark protection and portfolio management, anti-counterfeiting, transactional and commercial IP, in particular IP licensing. Michael Fammler heads the European IP Steering Committee of Baker & McKenzie and he is member of the Firm's Global IP Steering Committee and Partner of Baker & McKenzie Frankfurt (Germany).

Michael Fammler routinely advises international companies in all IP areas with emphasis on commercial intellectual property law. His main focus is on all aspects of trademark and trade name law. He has extensive expertise in the management of large, worldwide trademark portfolios, the drafting and negotiation of complex license agreements, including all related antitrust and competition law aspects and great experience in trademark litigation. Prior to bar admittance in 1990 Michael Fammler received an LL.M. degree (Southern Methodist University; Dallas, Texas) and holds a Dr. jur. from University of Constance.

Patrick S. Schriber

DuPont de Nemours, Associate General Counsel/Director Legal Europe, Middle East & Africa

Mr. Schriber joined DuPont as a lawyer in 1988, initially with the parent company in Wilmington and then, as of 1989, in Switzerland at the European headquarters. He then moved to the Performance Polymers business and relocated to Hong Kong ('95-'97) and later to Tokyo ('98-'99) in business management positions for the Asia Pacific region. In 1999, he returned to Geneva, focusing mainly on M&A and corporate matters, and was appointed Associate General Counsel and Director Legal for the EMEA region in 2004. He serves on the boards of a number of DuPont's European subsidiaries. Before joining DuPont, Patrick worked in private practice for 2 years with Baker & McKenzie in Geneva and Hong Kong.

Mr. Schriber earned his law degree at the University of Geneva in 1985 and was admitted to the Geneva Bar in 1987. He obtained a Master in Law (LLM) in Comparative Jurisprudence from New York University School of Law in 1988. He is a member of the board of the Geneva Chamber of Commerce as well as various other corporate and trade associations.

Patrick Ozoux

Michelin, Head of EU Representation Office

Patrick Ozoux (French, 57) is in charge of EU Public Affairs for Michelin based in Brussels since 2003. He joined Michelin in 1978, and held several positions in Marketing & Sales Department in France (1979), Egypt (in charge of the Turkish, Cypriot and Egyptian markets, 1980-1985), Director General for Michelin Ivory Coast (1985-1988), in charge of the Swiss Market for all tyre activities (1996-2001).

Patrick Ozoux also handled several positions in Export dept. (1988-1992) and then HR department (1992-1996) at the head office. He has got a temporary assignment in the International Labour Office in Geneva (2002-2003) and worked on Socially Responsible Restructuring.

Robert Anderson

Hogan Lovells, Consultant

Robert Anderson is a Consultant in Hogan Lovells' Intellectual Property Group in London. He has broad experience of intellectual property but specialises in patents and the protection of industrial trade secrets.

Robert has acted in a number of major cases relating to the alleged misuse of industrial secrets; ranging from glass factories in Russia, the development of bacterial strains in Taiwan to a process for extracting alginates from seaweed.

Robert is a solicitor-advocate of the Supreme Court and lectures on trade secrets for the Oxford University Post -Graduate Diploma in Intellectual Property. He assisted the Law Commission in connection with their proposals to criminalise the theft of trade secrets and is the co-author of the Study for the European Commission on the law of trade secrets in the 27 Member States.

Rubén Bonet

Fractus Corporation, President and Chief Executive Officer

Rubén is co-founder of Fractus, a growing European technology company specialized in the global wireless and telecom industries. Ruben has attracted more than €20 million in venture capital for Fractus in order to finance technology development, patent portfolio growth and international expansion. In 2005, Fractus was recognized as one of the most innovative technology companies by Red Herring and named a Technology Pioneer by WEC – World Economic Forum.

Fractus is currently implementing a technology and patent licensing program with more than \$60 million in revenues achieved to date. Rubén has 17 years' experience as an executive, consultant and entrepreneur in the international environment, particularly in the U.S. Recently, Rubén has been named Entrepreneur-In-Residence in the prestigious Business School IESE. In 2010, the Catalan government recognized Fractus with the National Communication Award. Earlier in his career, he worked as a consultant for Arthur Andersen. He holds a degree in telecommunications engineering from the Universitat Politècnica de Catalunya and an MBA from IESE.

Sarah Turner

Hogan Lovells, Of Counsel

Sarah Turner is Of Counsel in Hogan Lovells' Intellectual Property Group in London. Before qualifying as a lawyer, she obtained a Physics degree and now specialises in the law of industrial trade secrets and patents. She is the co-author of the Study for the European Commission on the law of trade secrets in the 27 Member States (published January 2012).

Sarah's trade secrets experience ranges from advising an international engineering company on the recovery (by execution of a search order) of its stolen engineering drawings to advising on the use of confidential information in the Galileo and Panama Canal locks projects. She also has experience of resolving cross border disputes where alleged breaches of confidence occurred in parallel in the US and UK.

Simon Cheetham

IPR SME Helpdesk, Team Leader

Simon Cheetham is Team Leader for the EC funded China IPR SME Helpdesk project. He also manages his own business ERINYES INTERNATIONAL LTD to capitalise on his extensive experience of international investigations, loss prevention and enforcement work.

Simon began his career with the Hong Kong Police, where he joined the Criminal Investigation Department. He joined Business Risks International as General Manager with direct responsibility for Hong Kong, China and Macau. Simon was later appointed Vice President of Pinkerton where he co-ordinated regional work between 11 offices and 16 countries. He has lectured frequently around the world on security issues and IPR and has written articles and papers on a variety of related topics.

Dr. Thomas S. Respass III

Baker & McKenzie, Principal Economist

Dr. Thomas S. Respass III is Principal Economist of Baker & McKenzie's Economics Group in Washington, D.C., specialized in Global Transfer Pricing and Global Antitrust with nearly 30 years of industry experience and also worked with the Bureau of Competition of the Federal Trade Commission. Dr. Respass provides comprehensive economic and valuation services for transfer pricing projects and other tax matters; he developed extensive experience in evaluating economic issues related to intangible property and its importance to multinational business operations.

Dr. Respass has considerable background as attorney, economist and accountant, having also served as trial attorney in government merger litigation and has extensive experience in all areas of anti-trust, including competitive analysis of mergers and acquisitions, price fixing and conspiracy, and monopolistic practices. Dr. Respass holds a J.D. from George Mason University School of Law, a Ph.D. at Economics, Rice University and B.S. at Management Science, Georgia Institute of Technology.

Emmanuel G. Baud

Jones Day, Partner

Emmanuel Baud handles complex litigations for French and international clients in the areas of intellectual property law and technology, including patents, trademarks, copyrights, designs, domain names, know-how, software, and geographical indications as well as unfair competition/passing off matters before national and European jurisdictions and institutions.

Emmanuel regularly assists clients in drafting and negotiating contracts involving intellectual property rights. He also advises clients on intellectual property strategy involving trademarks, models and designs prosecution, and internet-related issues such as domain name grabbing. In addition, he has a great deal of experience in the field of protected geographical indications, particularly with appellations of origin (AOC).

Emmanuel is a member of the Association des Praticiens du Droit des Marques et des Modèles (APRAM) and its former president (2010-2012), and a member of the International Trademark Association (INTA).