



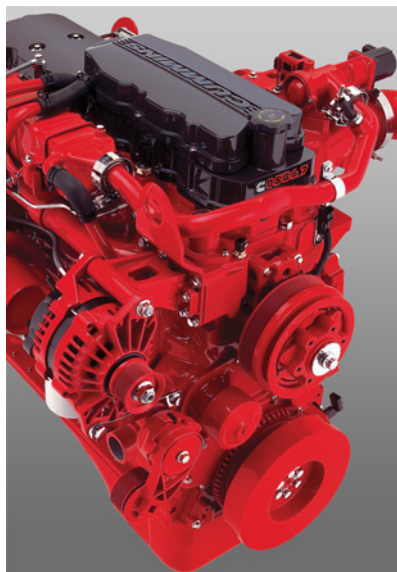
When To Pursue A Patent?

Patents vs. Trade Secrets

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Patents vs. Trade Secrets



Conception

Patent worthy
Cost to Protect
Need to Commercialize
Risk of Disclosure
Strategic Assessment
Willingness to Enforce

Patent

Trade Secret

Patent Worthy

- Patent Eligible Subject Matter
- Reverse Engineering
- Independently Invented
- Risk that a patent will not be obtained or that its validity will be challenged

✓ Reality Check – Does your company run routine audits to identify non-patentable proprietary information that is worth protecting?



Cost To Protect



- Cost To Seek Patent Protection
- Limited Financial Resources To Maintain
- Logistics

✓ Reality Check - Has your company conducted a risk assessment of all systems to identify where mission critical data and information is stored and the manner in which the information is safe-guarded?

Need To Commercialize

- Need to Share information
- Licensing
- Government Contracting



✓ Reality Check – Have relevant company contractors, suppliers and trusted business partners signed non-disclosure agreements and have they performed background investigations on their employees who have access to your company's proprietary information?

Risk of Disclosure

- Employees
- Mobile Employee Forces
- Overseas Research & Development



✓ Reality Check – Does your company have in place policies to protect against disclosure, including: electronic mail policy, internet usage policy, confidential information, information classification policy and a computer usage policy.

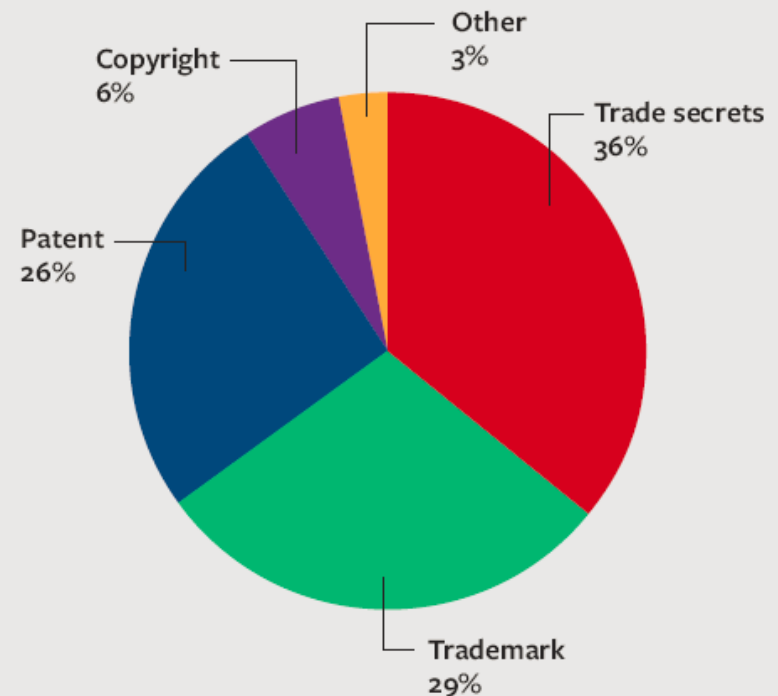
International Trade Secret Concerns

According to a study conducted by the U.S.- China Business Council (USCBC)

95% of respondents indicated that they are concerned with intellectual property enforcement in China with **36% identifying trade secrets** as the infringement of greatest concern.

Fig. 19

Intellectual Property Infringement of Greatest Concern



Strategic Assessment

- First to Market
- Competitive Advantage
- Negative Know-How



Willingness To Enforce

- Ease In Detecting Infringement
- Costs to Assert
- Damages and Likelihood of Recovery
- Willingness to Sue A Former Employee or Business Partner

Reality Check – Will your company sue a business partner or employee? How egregious must the behavior be to justify the costs of litigation?





Thank You

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