

VIABILITY OF TRADE SECRET PROTECTION FOR INVENTIONS OF SMALL AND MEDIUM-SIZED ENTERPRISES IN SRI LANKA

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ABSTRACT

Law pertaining to Trade Secrets (TS) is still a neglected area in the Intellectual Property Law arena. Since Sri Lankan enterprises are mainly either small or medium sized, as far as inventions in Sri Lanka are concerned most of them underlies the criteria to be satisfied to gain patent protection. The statistics reveal that despite number of domestic applications, it is predominantly the non-resident patent applications which are successful in gaining patent protection. Therefore the inventions of small and medium-sized enterprises (SME) lack legal protection even where there is no other legal mechanism like petty patent system to protect them. The findings demonstrate that TS protection could be used as an alternative to patent protection for the innovations those stand behind the patent criteria. Also because of the unlimited duration of protection and cost effectiveness whereas for registration of patents, the cost one has to incur is very high, TS protection provides a potential mechanism to overcome such difficulties raised by patent system in Sri Lanka. But still the awareness of intellectual property rights among Sri Lankan people is not at a satisfactory level. The author aims to identify the significance of TS Protection as opposed to patent protection for inventions of SMEs and also author aims to examine the possible inadequacies of TS provisions in Sri Lanka's Intellectual Property Act of 2003. The paper uses relevant books, agreements, statutes, journal articles, web sites as secondary sources and statistics and information gathered through relevant authorities are used as primary sources.

Keywords: Patent, Small and medium-sized enterprises, Trade secret

1. INTRODUCTION

Trade Secrets are a great economic tool enterprises own. This confidential information gives companies the ability to compete in the market. Well protected trade secrets have the potential of creating many advantages over other competitors. Customer lists, information about research and development activities, recipes,

business strategies, marketing plans, advertising strategies and software programs are among the information protected as trade secrets.

In the words of Sharon K. Sandeen, 'trade secret law is the Cinderella of the intellectual property (IP) law field, the forgotten step-daughter who toils in the shadow of her more