

These guidelines are tentative

Protecting Confidential Information

Despite having advanced technical knowledge and years of academic training, most professors do not have a solid understanding of intellectual property issues regarding their work. This guidance is designed to briefly summarize types of intellectual property and explain how professors should keep their information confidential.

Types of Intellectual Property

Trade Secrets

Trade secrets are information that derive value from not being generally known. The owner of the information must take reasonable efforts to maintain its secrecy. There is no registration process necessary to obtain a trade secret, the owner creates it by treating the information as confidential. The owner of a trade secret can prevent others from misappropriating the information. This means getting the information by improper means, such as disclosing without permission, stealing a computer storage device, or hacking into a database. The protection lasts as long as the owner of the information treats it as a trade secret. However, this does not prevent others from independently determining or engineering the information via proper means.

Patents

Inventions that qualify for patent protection must have a substantial utility, be novel and nonobvious. To receive protection an application must be filed with the U.S. Patent and Trademark Office and a patent must be issued. A patent cannot be issued if the invention has been described in a publication or presented at a conference (or otherwise disclosed) more than one year prior to filling the application. After being issued a patent exists for 20 years. Unlike trade secrets, patent protection does prevent other parties from independently making the invention or using it without the inventor's permission.

How to Protect Information

Generally, all information should be treated as a trade secret until the proper intellectual property protection scheme can be determined. As mentioned, any information disclosed in a publication generally cannot receive a patent unless a patent is filled within a year from that publication. Disclosing general information in a publication can prevent that information from being eligible for a patent or a trade secret, but the nuances of implementing that information may still be eligible for trade secret protection.

To keep information confidential, certain procedures and protective measures need to be in place. As stated above, a trade secret does not exist unless the owner of the information takes reasonable measures to protect it.

The first basic "reasonable measure" is using passwords to protect information stored on computers. The number of people who have access to the information should be limited to only those people who are involved in developing it. No information should be shared with people

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outside of the University until a confidentiality agreement has been executed by the Office of Technology Transfer (see next paragraph).

Another basic method of keeping information confidential is requiring researchers working with you to sign confidentiality agreements. Non-disclosure agreements (NDAs) and confidential disclosure agreements (CDAs) are legal agreements that explain how confidential information can be shared with the necessary parties and still restricted from public use or dissemination. The Office of Technology Transfer can help implement the appropriate NDA or CDA for your unit.

As previously stated, protected information should not be disclosed in a publication or when presenting at a conference. Technology presented in either may be ineligible for trade secret protection and will be ineligible for a patent if an application is not filed within a year of the presentation. When presenting a broad scope of the research may be presented and the technical details for implementing the invention may be patented or kept as a trade secret. To be patentable they must not be obvious to a person having ordinary skill in the field after viewing your presentation or reading your publication.

In general, if you are concerned about your plans for publication or disclosure or are not sure how is the best way to keep your information confidential, please contact the Office of Technology Transfer. We can help you understand your options with your research and how to proceed with the best intellectual property protection scheme for your invention.