An Alarming Need for Trade Secret Legislation in India

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Abstract
Trade secret is defined as a contractual right which arise in favour of the person who claims it to be secret and thereby preventing others not to use it and also to prevent the disclose confidential information, so that it makes the IP owner to disclose the idea in pre-mediated agreement with other employees and secure the knowledge which the other side is not free to take without compensating the IP owner, because it has a commercial value. In such a case of breach of confidential information, the employers’ are given with the right to sue the employee based on negotiated contract alone, meaning thereby the employer can sue only for the breach of contract. In case of disclosure of confidential information, the employer can take the defence of “Doctrine of Spring Board”, which is nothing but an employer-employee loyalty. Therefore, in case of Trade Secret (here in after noted as “TS”), “where there is a loss of crucial information, which has been already disclosed in-person to the employee, but still the employee takes such information and commit any contrary act can be said to constitute, what can be termed as “School boy trick” (Ahuja V.K.,2017). All this problems arises because, there is no in India, there is no statute per se for governing/ regulating loss of Trade Secret, but whereas US do have a legislation in this regard. The recent news which actually motivated the author to take up this topic, is the case between Waymo and Uber on the confidential information leak on Google’s idea of “Self-driving Technology”. Therefore, this idea can be linked with the concept of “Trade Secret” and a comparative study of US legislation and India’s position with respect to this case are also analysed.

Key Words: Trade Secret, Spring-board Doctrine, Confidentiality, Google’s Tradesecond, Innovation Policy.

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