SYNCHRONICITY OF TRADE SECRETS AND PATENTS: GLOBAL VIEW

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ABSTRACT:

Patents provide protection to innovations by granting sole and unshared rights to the inventor on their innovation for a specific period of time, mostly for a period of 20 years. On the other hand, trade secrets protect the processes, innovations, and information for an unlimited time period, but the main requirement for accessing this form of protection is that the subject matter has to be kept confidential. In order to provide protection to the core ideas and inventions, trade secrets and patents stand as two fundamental approaches using two totally different methodologies and procedures. This gives rise to the question of whether the same invention can be protected by both patent and trade secrets?

This paper discusses and looks deeply into how and at what point these two forms of protection coincide. Once the innovation is protected under a patent, it comes into the public domain and no longer remains hidden and confidential. The paper also discusses the global stance of the laws regarding the same. Therefore, corporations, businesses, etc., are using the mixed approach and strategy to protect the invention, information, or processes, and in order to strengthen the protection from both forms, that is, patents as well as trade secrets, by protecting the core idea with a patent, and the producing process as trade secrets for maximization of legal and commercial security into the world market.

Keywords: Trade Secrets, Patent, Intellectual Property, TRIPS.

Introduction:

The legal safeguards of work created by one's own intellect, any innovation is necessary in today's developing world. Intellectual property rights are the basic and necessary rights protecting our intellectual property. The World Trade Organization (WTO) defines IPR as "IPR are the rights given to persons over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time."[1] These rights are also recognized in Article 27 of The Universal Declaration of Human Rights (UDHR). Historically, it has been argued that IPR has its origin dating back to 500 BCE among the Greeks.[2] Therefore, there exist two noteworthy and well-known forms of IP, which are patents and Trade secrets; however, they are contrasting in nature. Patents, on the one hand, lead to the public disclosure of the innovation and give protection for a limited time period, usually 20 years. And trade secrets, on the other hand, lead to secrecy and give protection for an unlimited time period. This existing paradox raises many questions in the minds of people: can these two categories of protection exist together or not, as per the law?

Patents: the official legal right to make or sell an invention for a particular number of years.[3]The terminology patent has been derived from the Latin term *patere,* which means 'to open'. As is stated inTRIPS-Trade Related Aspects of Intellectual Property rights which is an international agreement overseen by the WTO, lays down the fundamental minimum standards of various kinds of IPR and that in Art. 27(1) the following is stated: "Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application."…"[4]

Meaning that, with regards to the TRIPS, a patent basically serves as a legal protection which has been acknowledged to any innovative invention (be it an article or process), in the condition that it satisfies requirements of being new, unique/inventive as well as being both utilizable and also applicable for industrial use. It is provided under section 2(1)(m) of the Patents Act, 1970 that 'Patent' refers to an approval, which has been approved according to this Act, for an

[1]World Trade Org., *What Are Intellectual Property Rights?*, https://www.wto.org (last visited Feb. 20, 2026).
[2]Stanford Encyclopedia of Philosophy, *History of Intellectual Property*, https://plato.stanford.edu (last visited Feb. 20, 2026).
[3]Cambridge Dictionary, *Patent*, https://dictionary.cambridge.org (last visited Feb. 22, 2026).
[4]Agreement on Trade-Related Aspects of Intellectual Property Rights art. 27(1), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994), https://www.wto.org/english/docs_e/legal_e/27-trips.pdf (last visited Feb. 22, 2026).

invention.[5] This is a brief definition. The meaning of "invention" is therefore further explained in Section 2(1)(j) as: "Invention means a new product or process involving an inventive step and capable of industrial application."[6] The fundamental concept of a patent system is to foster innovation & innovation & technological advancement through providing incentives to inventors in the form of exclusive rights over inventions for a specified term and as compensation thereof, the disclosure of detailed information on the invention, which facilitates access to knowledge and leads to further technological development in the field. Thus, the patent system tries to strike a balance between the interests of the inventors and the public.

Patent allows the holder to prevent other person(s) from commercially exploiting, commercializing, manufacturing, selling, offering for sale, using, importing and otherwise dealing with the patented invention for limited term. But patent do not give the owner the right to do these things but a right to exclude other person(s) from doing so. The owner of a patent may do any one or all of the foregoing, or grant rights to use the invention to other through licensing or assignment.

Under the Indian Patents Act, 1970, any invention can be patented only if all the three criteria namely 'Novelty', 'Inventive Step', and 'Industrial Applicability' are met. 'Novelty' means the invention is not published anywhere else in the world or in India prior to the filing date. 'Inventive step' refers to the fact that the invention is not obvious for persons working in the technical field to which it relates. 'Industrial applicability' means that the invention can be made or used in any kind of industry.

Patent system thus enhances investment and innovation in Research and Development leading to innovation thereby promote invention, innovation & technological advancements. Patents serve as one of the most significant incentives for the investment of time, energy & money in research & development. As patents confer a temporary monopoly on inventors, these patents contribute not only to the technological and industrial progress of the country, but also boost economic growth. Therefore effective Patent regime is essential for stimulation & stimulation and innovation and promotion of S&T.

Patent is aimed at stimulating inventive activity and technological progress through giving to the inventors exclusive rights on the subject matter of the invention for the limited period. This

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[5] The Patents Act, No. 39 of 1970, § 2(1)(j) (India).

[6] The Patents Act, No. 39 of 1970, § 2(1)(j) (India).

exchange of exclusive rights for public disclosure of the invention contributes to widespread of scientific and technological knowledge and scientific activity in technology. Thus, a patent system ensures compromise between the interests of patentees and public interests.

The patent gives to its owner not an authorization, but a right to ban other persons to commercially use invention.

Also the holder of the patent may sell his patent rights, give permission for utilization of patent object, to carry out the license sales. To gain protection as a patent according to Indian patents act, 1970 an invention must possess three requisites: Novelty, Inventive Step, and Industrial Applicability. Novelty is defined as an invention not known or available from prior art (publications in the world). An inventive step is not an obvious thing for a skilled worker in the art.

And the third requirement means the invention should be industrially useful, that it be capable of being made and used in any kind of industry.

The importance of the patent system in driving innovation is well-established through incentivizing, and attracts R&D and facilitates economic development. The economic incentive provided by patents has the dual effect of encouraging the invention itself and rewarding the inventor for undertaking significant and often risky R&D expenditures. In today's competitive, globalized and knowledge-based economy, patents play a significant role as strategic assets that contribute to technological advancements, industrial development, and global competitiveness.

Trade secrets: In the modern era, trade secrets are becoming increasingly important as the priority choices for protecting IP because of their great potential benefit in the economic field and area. Information considered a trade secret provides the company with a competitive advantage over its competitors and is often the result of internal research and development.[7] Basically, trade secrets are the kind of IP that actually safeguards sensitive and privileged business information containing practices, processes, formulas, etc. Information is a trade secret if it is secret, has commercial value because of its secrecy, and reasonable steps are taken

[7] *What Is a Trade Secret?*, Investopedia, https://www.investopedia.com/terms/t/trade-secret.asp (last visited Feb. 22, 2026).

to maintain its secrecy[8]."All forms and types of financial, business, scientific, technical, economic, or engineering information… whether tangible or intangible… if the owner has taken reasonable measures to keep such information secret, and it derives independent economic value from not being generally known."[9]Therefore, we can say that trade secrets are those confidential secrets of the company that are kept hidden from the public for an unlimited time period and are only known to a few people, maybe those dealing with it, for the utmost benefit of running that particular business successfully. For example, the ingredients used in the Rooh Afza are protected and kept hidden with the help of trade secrets.

The protection given to trade secrets does not involve any formal registration or prior permission from any governmental body unlike the other types of intellectual property rights namely patents, trademarks and copyrights. The protection given to trade secrets arises as a result of the information remaining confidential in nature and possessing commercial value. Due to this aspect, trade secret protection is one of the most preferable types of IP protection for many enterprises who wants to escape disclosure requirements imposed in the case of the other IPs. The best example being when an invention gets patented, the details thereof are to be disclosed by the inventor in public and he gets exclusive rights for a specified period. On the contrary, trade secrets may continue for any period of time provided that the secrecy aspect continues.

The protection given to trade secrets is internationally recognized and is covered under the Article 39 of the TRIPS. This provision requires that every member state shall protect undisclosed information against acquisition, use or disclosure by others in a manner contrary to honest commercial practices. In India, there is no exclusive law that covers protection of trade secrets, however, the protection may be availed through contractual obligations like Confidentiality Agreements and NDAs, employment contracts and equity and common law. Trade secrets in the present day is very fundamental and crucial to innovation and operation in most businesses. They comprise of manufacturing processes, lists of customers, marketing strategies, business plans, algorithms, and research and development data. Some are in the form of technological know how. Leaks or misuse of such secrets can cause significant loss in market position. The management safeguards this confidential information with proper security controls such as controlling access to it, having confidentiality policies, conducting proper

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[8] Agreement on Trade-Related Aspects of Intellectual Property Rights art. 39(2), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994), https://www.wto.org/english/docs_e/legal_e/27-trips.pdf (last visited Feb. 22, 2026).

[9]Defend Trade Secrets Act of 2016, Pub. L. No. 114-153, 130 Stat. 376 (codified at 18 U.S.C. §§ 1836–1839).

training for their employees and using sophisticated digital security systems to safeguard their proprietary knowledge. Unlike other forms of intellectual property (IP) rights such as patents, copyrights, and trademarks, there is no need for registration or governmental approval to get trade secret protection; such protection is automatically granted as long as the confidential information maintains economic value. Thus, trade secret protection is often the most preferred option by businesses, as it avoids disclosures that may be involved when seeking protection through other avenues. Unlike patent which needs inventors to publicize every detail of an invention and be entitled to an exclusive period, a trade secret can technically last indefinitely, as long as it's kept in secrecy.

International Recognition The protection of trade secrets is globally harmonized through Article 39 of TRIPS where member states are mandated to protect undisclosed information from being acquired, used, and/or disclosed by others in a manner that is contrary to honest business practices.

In India, despite lack of specific legislation on trade secret, they can be protected through various contracts such as NDA's, confidentiality agreements, employee contracts, and the equitable and common laws. Trade Secrets In Practice As an crucial aspect of modern business and innovation, trade secrets can encompass a wide range of confidential information such as processes for manufacturing a product, lists of potential and existing customers, plans for business or marketing activities, secret formulas, research, algorithms, customer data and know-how which would provide its owner a competitive advantage in the market. Any misappropriation or disclosure of these confidential business secrets could be highly damaging and financially injurious to businesses, prompting businesses to invest in adequate security measures to guard their proprietary information.

Laws protecting trade secrets in U.S and EU Directives:

Uniform Trade Secrets Act (UTSA): Firstly drafted by the Uniform Law Commission in the year 1979, however, it was revised and at large part, adopted by the US states in the year 1985. This law guarantees full protection to the trade secrets at the state level and within the state.

Economic Espionage Act (1996): It is a U.S. law according to which stealing a trade secret is crime. This federal law criminalizes trade secret theft, addressing both economic espionage (benefiting foreign governments) and domestic theft of trade secrets used in interstate commerce. It empowered the FBI to investigate such cases.[10]

Defend Trade Secrets Act (2016) : It provides companies with the power to approach federal courts in order to protect their trade secrets. The primary remedies are an injunction, a claim for damages, and, in rare situations where dissemination cannot otherwise be prevented, an order allowing for an ex parte seizure of the property.[11]

EU Trade Secrets Directive (Directive 2016/943):Adopted on June 8, 2016, the Directive defines trade secrets and the system applying to it which is binding on the Member States of the EU. This Directive defines what a trade secret is, prohibits the unlawful acquisition, use and disclosure of a trade secret and enables claims for damages or an injunction, whilst balancing the exceptions where public interest or whistleblowing are to be favored.[12]

The tension between legal principles:

It is quite a popular opinion that the trade secrets and patents cannot go along well together. There are several points where these two forms of protection are very much in contradiction to each other, particularly with respect to the disclosure requirements under patent law and the secrecy requirement under trade secret protection. However, this opinion is not entirely correct, as both forms of protection can coexist and be strategically used together within the framework of Indian intellectual property law.[13]

Revelation v. Non-disclosure: There are contrasting essentials for both these forms of protection, such as:

Patent laws of different nations necessitate 'disclosure of the same to the public' as an important criterion for granting a patent on that particular invention. Section 10 of the Patent Act 1970 states that –

[10]*Trade Secret vs. Patent: Protecting Your Innovations*, GovFacts, https://www.govfacts.org (last visited Feb. 22, 2026).
[11] *Trade Secret vs. Patent: Protecting Your Innovations*, GovFacts, https://www.govfacts.org (last visited Feb. 23, 2026).
[12]Directive 2016/943, of the European Parliament and of the Council of 8 June 2016 on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) Against Their Unlawful Acquisition, Use and Disclosure, 2016 O.J. (L 157) 1, https://eur-lex.europa.eu (last visited Feb. 23, 2026).
[13]The Patents Act, No. 39 of 1970, § 10 (India); see also Tanya Aplin & Jennifer Davis, *Intellectual Property Law: Text, Cases, and Materials* 758–60 (3d ed. 2017); 1 Roger M. Milgrim, *Milgrim on Trade Secrets* § 1.01 (Matthew Bender, rev. ed.).

"(1) Every specification, whether provisional or complete, shall describe the invention and shall begin with a title sufficiently indicating the subject-matter to which the invention relates.

(2) drawings may, subject to any rules that may be prescribed in this behalf under the present Act, and shall, if the controller directs them to be supplied for any complete or provisional specification, and they shall, unless the controller directs the contrary, be presumed to form part of that specification and this Act shall read there-unto accordingly;

(3) The controller may if it thinks fit on application in any case for better supplementation with a drawing or model or sample of anything illustrating an invention, that any drawing, sample or sample as the controller may be furnished before any further action is taken to a complete the complete specification: provided it shall not form any complete portion thereof, not.

(4) Every complete specification shall—

(a) fully and particularly describe the invention and its operation or use, and the method by which it is to be performed;

(b) disclose the best method of performing the invention which is known to the applicant and for which he is entitled to claim protection; and

(c) end with a claim or claims defining the scope of the invention for which protection is claimed;

(d) be accompanied by an abstract to provide technical information on the invention."[14]

Therefore, according to this section, the application of the patent must compulsorily include a complete specification. After the granting of the patent for a period of 20 years, the innovation exists in the public domain and there remains no confidentiality of the same.

On the other hand, trade secret protection relies completely on 'secrecy and confidentiality.' Article 39 of TRIPS states for 'the protection of not disclosed information, which is known as trade secrets or confidential business information. It acknowledges the fact that intellectual

[14]The Patents Act, No. 39 of 1970, § 10 (India).

property (IP) not only covers patents, trademarks, or copyrights as protection, but also includes information having commercial value that necessarily requires remaining under confidentiality.'[15]However, there exists no specifically devoted act or law on regulating trade secrets in India; still, they are regulated and protected under various acts, such as the Indian Contract Act, 1872, Tort law, the IT Act, 2000, and equity and common law principles. 'The following are the statutory provisions which recognize the protection of trade secrets in India: Sec 27 of contract law bars any person from disclosing any information, sec 72 of IT Act provides for criminal remedy and punishes a person with imprisonment or fine in case of access to any electronic media and Sec 43A of IT Act, provides for compensation for the protection of sensitive personal data which includes passwords, biometrics and another personal record'.[16] Now, due to these contradictory requirements of the two forms of protection, the same innovation cannot be protected through both a patent and a trade secret. Once a patent has been granted to a particular invention during the period of its validity, or even after its expiry, or when the information has been made available to the public dominon, an individual then cannot later assert protection through a trade secret for the same innovation. [17]To its solution, there exists a coordinated approach that allows patents and trade secrets to simultaneously exist, but only for different ingredients of the same innovation and invention. The main inventive idea, or conception, or we can say ingredient, for example, in the case of medicines, a new drug or salt, may be patented.

The process of carrying out its manufacturing, or non-essential know-how, may be kept confidential under the protection of trade secrets.

Subject matter dilemma: The dilemma here exists regarding the protection of trade secrets and patents for similar subject matter. The confusion arises that the same subject matter be safeguarded under patent law and trade secrets law at the same time period, and if the answer to the question is no, then what course of protection needs to be followed?

Both trade secrets and patents are competent to protect scientific and technical innovations, for example, a new machine or an industrial process like the process of producing a particular drug,

[15]Agreement on Trade-Related Aspects of Intellectual Property Rights art. 39, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994).
[16]Poorvi Bansal, *Trade Secrets: India's Dimension*, DYPVP L. Rev.,)
[17]*Prof. Dr. Claudio De Simone & Anr. v. Actial Farmaceutica SRL & Ors.*, 2020 SCC OnLine Del 200 (Del. HC), https://www.scconline.com/DocumentLink/oyQJrYp1 (last visited Feb. 25, 2026).

chemical formulas, software algorithms, or source codes.[18] The utmost requirement of Patent law is the public revelation of the innovation to grant protection under patent law for a limited period. And, on the other hand, the requirement for the trade secrets is keeping the content and invention confidential. Once a patent application is published (e.g., under §11A of the Indian Patents Act, 1970), the invention enters the public domain, thereby losing the essential "secrecy" element.[19] From the above-stated facts and information, we can say that the same subject matter cannot be protected under both forms of protection, i.e., trade secrets and patent law cannot protect the same content and information at the same time. Therefore, two-layered protection is not possible for the same subject matter. In no way is this to say their coexistence cannot be achieved. Trade secrets and patents can co-exist as protection of different interests. For example, a company making sharbat may patent the process used in producing it, but keep its ingredients secret.

However, there exists non-patentable content and information, such as data compilations, marketing strategies, and other commercial information, 'business information like customer lists'[20]Methods of doing business and any invention or innovation, or we can say a business idea that lacks newness or is not unique, that cannot be patented under patent law, here no dilemma arises, and therefore, such subject matter can be protected under trade secrets and can be maintained as a secret.

Conclusion:

The viable solutions: Numerous firms, corporations, and businesses are adopting the combined approach, which is to provide protection under patent to only one part of the invention, which is the main idea or concept, and keep the other part a secret. Like in the pharma companies, such companies often patent the "active pharmaceutical ingredient" (API) or the main drug composition used in a particular medicine to protect all the exclusive rights for a period of 20 years and protect the manufacturing process, "purification method and process" through trade secrets, which are therefore kept confidential for an indefinite period of time. Doing so ,even when the patent gets expired after a specific time period, the other

[18]Rochelle C. Dreyfuss, *Trade Secrets and Patents in the Modern Commercial World*, 34 Colum. J.L. & Arts 397, 400 (2011).
[19]Rochelle C. Dreyfuss, *Trade Secrets and Patents in the Modern Commercial World*, 34 Colum. J.L. & Arts 397, 400 (2011).
[20]*Burlington Home Shopping (P) Ltd. v. Rajnish Chibber*, 1995 PTC (15) 278 (Del. HC).

contendors in the market still find it difficult to copy and reproduce the process and products precisely because of the indefinite securing and protection of the confidential know-hows giving an competitive edge to that particular business or company. It is an accepted fact that patents and trade secrets are at polar extremes on the issue of disclosure.[21] As patents are required to be disclosed in the public for obtaining the rights of exclusivity, and on the very other hand, the trade secrets are dependent completely on the secrecy and "confidentiality". Even after a patent expires, trade secrets can continue to protect valuable proprietary information[22]. But with the ways discussed in this paper, we also agree that both forms of protection can exist in harmony, and in fact, we can say that they complement each other very well. In fact, trade secrets are the first line of defense: they precede patents, accompany patents, and follow patents.[23] They are infact capable of functioning along with patents by protecting and shielding secondary and subordinate technologies. Also in the case of (*Kewanee Oil Co. v. Bicron Corp.)* (U.S. Supreme Court, 1974), it was being held that trade-secret protection does not comes inconflict with the patent law. Both can coexist because they serve different purposes: patents reward disclosure, trade secrets reward secrecy.'[24]This was the landmark judgment proving the coexistence of the two totally different forms of protection.

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[21]Karl F. Jorda, *Patent and Trade Secret Complementariness: An Unsuspected Synergy*, 48 Washburn L.J. 1 (2008), https://ipmall.info/sites/default/files/hosted_resources/jorda/Jorda%20Speeches/20081217_IMPI_MexicoPatentTradeSecretInterface.pdf (last visited Feb. 27, 2026).

[22] 1 Roger M. Milgrim, *Milgrim on Trade Secrets* § 1.05 (Matthew Bender, rev. ed.) (explaining that trade secret protection may continue indefinitely so long as secrecy is maintained, even where patent protection has expired or was never sought).

[23] Karl F. Jorda, *Patent and Trade Secret Complementariness: An Unsuspected Synergy*, 48 Washburn L.J. 1 (2008), https://ipmall.info/sites/default/files/hosted_resources/jorda/Jorda%20Speeches/20081217_IMPI_MexicoPatentTradeSecretInterface.pdf (last visited Feb. 27, 2026).

[24]*Parker v. Flook*, 437 U.S. 584 (1978).

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[5]The Patents Act, No. 39 of 1970, § 2(1)(j) (India).

[6]The Patents Act, No. 39 of 1970, § 2(1)(j) (India).

[7]*What Is a Trade Secret?*, Investopedia, https://www.investopedia.com/terms/t/trade-secret.asp (last visited Feb. 22, 2026).

[8] Agreement on Trade-Related Aspects of Intellectual Property Rights art. 39(2), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994), https://www.wto.org/english/docs_e/legal_e/27-trips.pdf (last visited Feb. 22, 2026).

[9]Defend Trade Secrets Act of 2016, Pub. L. No. 114-153, 130 Stat. 376 (codified at 18 U.S.C. §§ 1836–1839).

[10]*Trade Secret vs. Patent: Protecting Your Innovations*, GovFacts, https://www.govfacts.org (last visited Feb. 22, 2026).

[11] *Trade Secret vs. Patent: Protecting Your Innovations*, GovFacts, https://www.govfacts.org (last visited Feb. 23, 2026).

[12]Directive 2016/943, of the European Parliament and of the Council of 8 June 2016 on the Protection of Undisclosed Know-How and Business Information (Trade Secrets) Against Their Unlawful Acquisition, Use and Disclosure, 2016 O.J. (L 157) 1, https://eur-lex.europa.eu (last visited Feb. 23, 2026).

[13]The Patents Act, No. 39 of 1970, § 10 (India); see also Tanya Aplin & Jennifer Davis, *Intellectual Property Law: Text, Cases, and Materials* 758–60 (3d ed. 2017); 1 Roger M. Milgrim, *Milgrim on Trade Secrets* § 1.01 (Matthew Bender, rev. ed.).

[14]ThePatents Act, No. 39 of 1970, § 10 (India).

[15]Agreement on Trade-Related Aspects of Intellectual Property Rights art. 39, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994).

[16] Poorvi Bansal, *Trade Secrets: India's Dimension*, DYPVP L. Rev.,)

[17]*Prof. Dr. Claudio De Simone & Anr. v. Actial Farmaceutica SRL & Ors.*, 2020 SCC OnLine Del 200 (Del. HC), https://www.scconline.com/DocumentLink/oyQJrYp1 (last visited Feb. 25, 2026).

[18] Rochelle C. Dreyfuss, *Trade Secrets and Patents in the Modern Commercial World*, 34 Colum. J.L. & Arts 397, 400 (2011).

[19] Rochelle C. Dreyfuss, *Trade Secrets and Patents in the Modern Commercial World*, 34 Colum. J.L. & Arts 397, 400 (2011).

[20] *Prof. Dr. Claudio De Simone v. Actial Farmaceutica S.R.L.*, CS(OS) 576/2019 (Del. HC Mar. 17, 2020).

[21] *Burlington Home Shopping (P) Ltd. v. Rajnish Chibber*, 1995 PTC (15) 278 (Del. HC).

[22] Karl F. Jorda, *Patent and Trade Secret Complementariness: An Unsuspected Synergy*, 48 Washburn L.J. 1 (2008),https://ipmall.info/sites/default/files/hosted_resources/jorda/Jorda%20Speeches/20081217_IMPI_MexicoPatentTradeSecretInterface.pdf (last visited Feb. 27, 2026).

[23] 1 Roger M. Milgrim, *Milgrim on Trade Secrets* § 1.05 (Matthew Bender, rev. ed.) (explaining that trade secret protection may continue indefinitely so long as secrecy is maintained, even where patent protection has expired or was never sought).

[24] Karl F. Jorda, *Patent and Trade Secret Complementariness: An Unsuspected Synergy*, 48 Washburn L.J. 1 (2008), https://ipmall.info/sites/default/files/hosted_resources/jorda/Jorda%20Speeches/20081217_IMPI_MexicoPatentTradeSecretInterface.pdf (last visited Feb. 27, 2026).

[25] *Parker v. Flook*, 437 U.S. 584 (1978).