Open secrets?
Guarding value in the intangible economy

CMS law·tax·future

Today's businesses derive an ever greater proportion of their value from intangible assets, such as customer data and software algorithms, that can best be regarded as trade secrets: protected not in patent filings or copyrights, but through secrecy. Threats to trade secrets—from cyberattacks and corporate espionage to employee leaks—are growing in severity and complexity as more business is conducted online and across borders. A survey of senior executives conducted by The Economist Intelligence Unit (EIU) and commissioned by CMS finds that trade secret protection is rising up the corporate agenda, as new threats beget new strategies for guarding value.

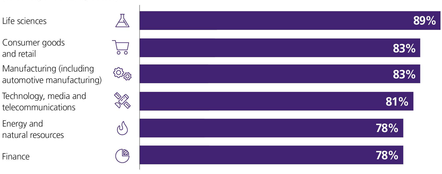
Gaining importance

The survey finds that trade secret protection is no longer just a concern for legal and risk functions, but an essential priority at the board and C-suite level. Trade secret breaches, resulting in significant financial consequences, loss of business, loss of competitive advantage and reputational damage, underpin this growing importance.

Respondents who think trade secret protection is either a high or essential priority for the following personnel (% of responses)

Board of directors	C-suite	Legal department
75%	77%	75%

Cross-sector respondents who believe proprietary information is essential to their organisation's value (% of respondents, by sector)

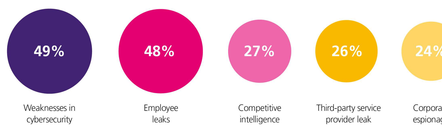


Top perceived consequences of trade secret misappropriation (% of responses)

Key threats

Threats to trade secrets stem from both internal and external sources. Cyberattacks and corporate espionage threaten secrecy from the outside, while weak corporate culture and leaks by employees and business partners can compromise secrecy, from within.

Most significant threats to the security of trade secrets (% of responses)



1 Cybersecurity risks

Cyber threats are a longstanding issue but as companies embrace flexible working in the post-covid-19 era, 82% of respondents say that leveraging cybersecurity software is key to their organisation's long-term success in protecting trade secrets.

2 Failure to understand importance of trade secret protection

Companies should be able to identify, value and prove the importance of trade secrets. However, only 13% of respondents reported the failure to categorise intangible assets as trade secrets as a significant threat.

3 Employee threats

31% of respondents call for corporate culture to shift towards encouraging trade secret protection.

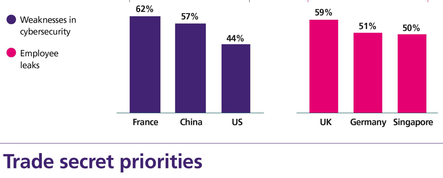
Obstacles to safeguarding trade secrets

Cybersecurity weakness is the top threat to trade secrets in the US, France and China, while employee leaks are the top threat in Germany, the UK and Singapore.

Top perceived threat to trade secrets across each country:

The threat of cyberattack in the US, France and China is worsened by poor internal cybersecurity expertise—a top obstacle to trade secret protection in these countries

Only 31% of respondents across Germany, the UK and Singapore strongly agree that their organisation fosters a culture that encourages trade secret protection by employees—lower than all other countries

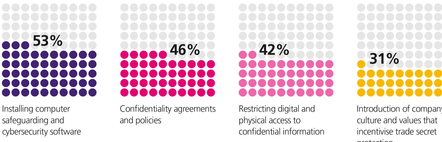


Trade secret priorities

To counteract the threats associated with trade secret misappropriation, companies can rely on a range of internal-facing and external-facing countermeasures:

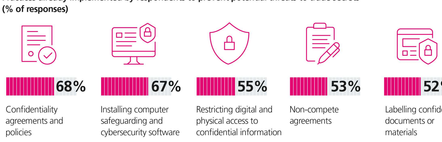
Most effective practices for preventing the potential threats to trade secrets (% of responses)

External-facing measures — Internal-facing measures



Companies have already invested in a number of these countermeasures. Cybersecurity, contractual measures and physical guides and restrictions are already on the agenda.

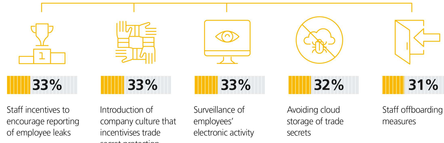
Practices already implemented by respondents to prevent potential threats to trade secrets (% of responses)



However, companies are not doing enough: **almost 75% of respondents agreed that increasing financial investment was necessary to protect their trade secrets.**

To that end, respondents' companies are planning to implement further protective measures.

Four out of the top five measures that companies are planning to implement over the next two years focus on minimising employee leaks



Read The EIU's report
"Open secrets? Guarding value in the intangible economy"
to learn more about how to safeguard trade secrets.

An infographic by
The Economist INTELLIGENCE UNIT