

# Trade Secrets and Patents under Vietnamese Law

In Vietnam's intellectual property landscape, businesses have two primary avenues to safeguard their innovations: trade secrets and patents. Each offers distinct advantages and is governed by specific legal frameworks. A comprehensive understanding of these mechanisms is essential for making informed decisions about protecting proprietary information.

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# Trade Secrets: Definition and Legal Framework



## Secrecy

The information is not common knowledge and is not easily obtainable by others.



## Commercial Value

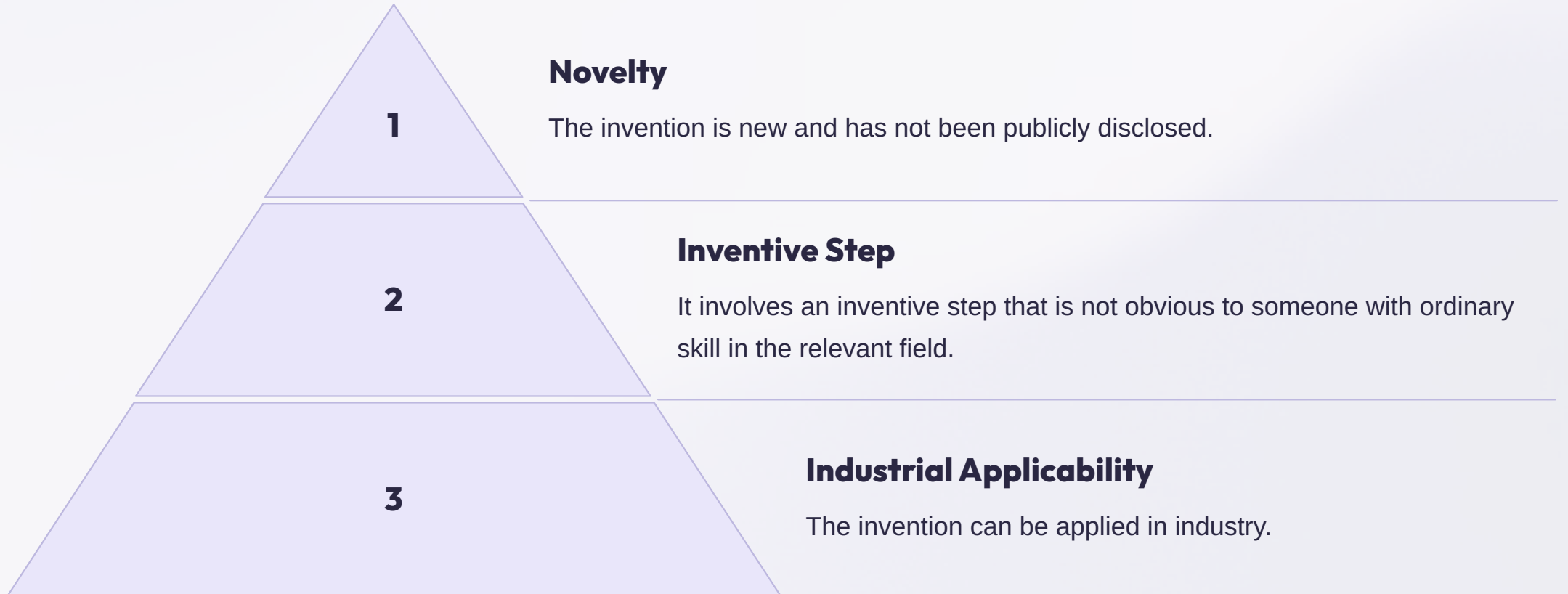
When utilized in business, it provides the holder with an advantage over those who do not possess or use it.



## Protection Measures

The owner has implemented necessary measures to ensure the information remains undisclosed and inaccessible.

# Patents: Definition and Legal Framework



# Key Differences: Disclosure

## Trade Secrets

Protection is contingent upon maintaining confidentiality. Public disclosure can nullify protection.

## Patents

Require full public disclosure of the invention's details as part of the application process.





# Key Differences: Duration of Protection

1

## Trade Secrets

Protection can last indefinitely, provided the information remains confidential.

2

## Patents

Offer protection for 20 years from the filing date, after which the invention enters the public domain.



# Key Differences: Legal Protection and Enforcement

## Trade Secrets

Owners must actively protect their secrets. Legal recourse is available against misappropriation, but enforcement can be challenging, especially in proving unauthorized acquisition or use.

## Patents

Provide exclusive rights enforceable by law, allowing patent holders to prevent others from making, using, or selling the invention without permission.

# Key Differences: Risk of Reverse Engineering

1

## Trade Secrets

Vulnerable to reverse engineering, which is legally permissible in Vietnam. Competitors can lawfully analyze products to discover underlying secrets.

2

## Patents

Once granted, the disclosed information is protected, and reverse engineering would constitute infringement during the patent's term.





# Choosing Between Trade Secret and Patent Protection



## Nature of Information

Consider ease of reverse-engineering or independent development.



## Duration of Value

Evaluate long-term commercial value beyond 20 years.



## Protection Resources

Assess costs for patent application vs. ongoing security measures.



## Strategic Considerations

Weigh benefits of public disclosure against maintaining secrecy.



# ABOUT US



Herman, Henry & Dominic is an experienced team of lawyers and legal experts, based in Saigon and Hanoi. The firm is a member of the INTERNATIONAL TRADEMARK ASSOCIATION (INTA).

Herman, Henry & Dominic believes in building strong relationship with clients based on trust and respect. The firm maintains permanent good working relations with various governmental bodies in Vietnam to enable its team to access the resources necessary to produce timely and effective results for clients.

Herman, Henry & Dominic works under the motto: "Local Expertise & Global Standard."

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