



Judicial protection of trade secrets

Judgment of the Provincial Court of Barcelona, of 20 May 2022, and Judicial Writs of the Commercial Court no. 10 of Barcelona, of 7 and 22 March 2022

The purpose of trade secret regulations is to ensure the competitiveness of innovative companies and to improve the conditions for the protection of undisclosed information with business value (trade secrets).

In recent months, a number of noteworthy court decisions regarding the protection of trade secrets have been handed down.

The importance of non-disclosure agreements

Firstly, the Judgment of the Provincial Court of Barcelona, of 20 May 2022, upheld a EUR 4.2 million claim. The defendant company allegedly engaged in unfair conduct by exploiting trade secrets that had been provided under a non-disclosure agreement.

This judgment is relevant, not only because of the high amount of the awarded compensation, but also due to the importance given to the existence of a non-disclosure agreement, which was intended to prevent the defendant from using the information in the way it was ultimately used.

The Provincial Court considers the execution of the non-disclosure agreement as one of the key elements of the case. According to the judgment, the defendant acted unfairly to gain access to the claimant's trade secrets with the

aim of securing the management of a hotel that the claimant intended to start operating. Consequently, the claimant lost the opportunity to exploit the business referred to in the privileged information.

Protection of trade secrets in the course of a judicial procedure

Secondly, Commercial Court no. 10 of Barcelona recently issued several resolutions aimed at implementing measures of the Law on Trade Secrets to preserve the confidentiality of information that may constitute a trade secret and has been disclosed in the course of a judicial proceeding. This has included measures such as refraining from using or disclosing information outside the judicial proceedings. Likewise, measures have also been taken to grant access to information only on an individualised basis to specific persons.

Courts becoming accustomed to implementing these measures for the protection of confidential information is extremely beneficial, as it renders greater protection to trade secrets and greater legal certainty to the holders of such trade secrets.