

APPENDIX 4

**Hogan Lovells' summary of Member States' initial trade secrets  
questionnaire responses**

**HOGAN LOVELLS SUMMARY OF MEMBER STATES TRADE SECRETS INITIAL QUESTIONNAIRE RESPONSES**

(\*indicates selected Member State for more detailed analysis)

MEMBER STATE	SPECIFIC LEGISLATIVE PROVISIONS ON PROTECTION OF TRADE SECRETS?				OTHER LEGAL PROVISIONS TO SECURE PROTECTION?	TRADE SECRETS CONSIDERED TO BE IP?	ENFORCEMENT DIRECTIVE APPLICABLE?	CIVIL REMEDIES			CRIMINAL LIABILITY?	EX PARTE SEARCH ORDER AVAILABLE?	
	Civil		Criminal					Damages	Injunction	Other (e.g. delivery up)			Fine / Imprisonment
	Unfair competition	Other	Unfair competition	Other									
<b>Austria</b>	✓ Unfair Competition Act	✓ Patent Act	✓ Unfair Competition Act	✓ Criminal Code	Unfair Competition Act - unfair business practice	X  No definition of IP in Austrian law	X	✓ Requires fault	✓ Interim	No action for accounting under Unfair Competition Law	✓	X No, but ex parte preservation of evidence order and interim injunctions available to preserve plaintiff's rights	
<b>Belgium*</b>	✓ Law on market practices and protection of consumers	✓ Labour Law	X	✓ Manufacturing secrets - Belgian Criminal Code	Tort law - (Belgian Civil Code)	X	X	✓ under Civil Code only	✓ but permanent injunctions not available in practice	?	✓	X Only open to intellectual property rights holders	
<b>Bulgaria*</b>	✓	✓ Various	-	✓ Business bribe under Criminal Code	Over 60 statutory and non-statutory provisions protecting trade secrets	X	X	✓ Most common	✓	Specific performance in contract law	✓	✓	
<b>Cyprus</b>	X	X	Competition Law	Commercial Descriptions Law & General Product Safety	X	X	X	X	X	X	✓	✓ but court reluctant to grant	

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	Civil		Criminal					Damages	Injunction	Other (e.g. delivery up)			Fine / Imprisonment
	Unfair competition	Other	Unfair competition	Other									
				Law									
<b>Czech Republic</b>	✓ Czech Commercial Code	X	✓	X	X	X	X	✓	✓	✓ account of profits, public apology	✓	X General provision on securing evidence not used in practice in civil proceedings. Police may search in criminal proceedings	
<b>Denmark</b>	✓ Marketing Practices Act	X	✓ Marketing Practices Act	✓ Criminal Code	X	X	X	✓	✓	✓	✓ 6 years imprisonment maximum	X Only applies to IPR. But police may carry out search and seizure in criminal case	
<b>Estonia</b>	✓ Competition Act	X	X	✓ Penal Code	Commercial Code and Employment Contracts Act	X But no case law	X	✓	✓	✓ for contractual liability	✓	X save for criminal proceedings	
<b>Finland</b>	✓ Unfair Business Practices Act	✓ Employment Contracts Act, Act on the Protection of Privacy in Electronic Communications & other Acts		✓ Criminal Code	X	✓ In part under broad definition of IP under Finnish law	✓ In part - preservation of evidence	✓	✓	X	✓	✓ For preservation of evidence in disputes concerning IP	

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	Civil		Criminal					Damages	Injunction	Other (e.g. delivery up)			Fine / Imprisonment
	Unfair competition	Other	Unfair competition	Other									
		for protection of trade secrets disclosed in legal proceeding -s											
<b>France</b>	X	X	X	✓ Labour Code and IPC for manufacturing secrets	✓ Civil Code & Criminal Code	✓ Manufacturing secrets under IPC in broad sense	X	✓	✓	-	✓	✓	
<b>Germany*</b>	X	✓ Civil Code (Tort)	✓ Unfair Competition Act	✓ Criminal Code & Limited Liability Companies Act & Stock Corporation Act and Commercial Code etc.	✓ Unfair Competition Act - general rule forbidding all "unfair activities for the purpose of competition"	X	X	✓	✓	✓ delivery up/ destruction and account of profits	✓	✓ Can get access to infringing product by civil law claim. But easier to obtain information via criminal proceedings	
<b>Greece</b>	X	X	✓ Unfair Competition Law	✓ Penal Code	✓ Tort Law/ Civil Code and Commercial Code etc.	X	X	✓	✓	✓ account of profits	✓	✓	

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	Unfair competition	Other	Unfair competition	Other									
<b>Hungary</b>	✓ Unfair Competition Act	✓ Civil Code & Act on Business Associations & Labour Law & Financial Enterprises Law & Capital Market Law	X	✓ Penal Code	✓ General provisions in Unfair Competition Act	X	X	✓	✓	✓ declaration/apology etc.	✓	✓ in criminal proceedings	
<b>Republic of Ireland</b>	X	X	X	X	Law of confidence, data protection, criminal damage & specific sector related legislation	X	X	✓	✓	✓ Account of profits, delivery up or destruction	X save for sector specific legislation & data protection act	✓ Anton Piller order	
<b>Italy*</b>	X	✓ Italian Code of Industrial Property	X	Italian Criminal Code	✓ Criminal Code and Civil Code	✓	✓	✓	✓	✓ seizure and removal from market	✓	✓	
<b>Latvia</b>	✓ Competition Act	✓ Commercial Law & Labour Law & FOI Law and Law on Compe-	✓ Specific provision in the Criminal Law	✓ Criminal Law	✓ Competition Act	✓ General understanding that trade secrets are IP	Although the definition of IP in Civil Procedure Law does not explicitly refer to trade secrets and there is no case	✓	✓	✓	✓ maximum of eight years imprisonment	✓	

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	Civil		Criminal					Damages	Injunction	Other (e.g. delivery up)			Fine / Imprisonment
	Unfair competition	Other	Unfair competition	Other									
		nsation of Damages caused by Public Administration Institution.					law, precautionary measures are considered to be applicable to trade secrets						
<b>Lithuania</b>	✓ Competition Act	✓ Labour Code and Civil Code	X	✓ Criminal Code	✓ Competition Act	? no case law	X	✓	✓	✓ Seizure/ destruction	✓	✓	
<b>Luxembourg</b>	X	X	X	✓ Criminal Code	✓ Unfair Competition & Civil Code / Tort Law	X	X	✓ under tort	✓	X	✓	✓ but no case law for civil proceedings	
<b>Malta</b>	X	X	X	X	✓ Contract Law + Possible criminal liability under criminal code if misappropriation, unlawful access to/use of information or fraudulent gain.	X	X	✓ for breach of contract	✓ in context of breach of contract	X	X unless amounts to misappropriation or unlawful access to or use of information	✓ by police under criminal law	
<b>Netherlands</b>	X	X	X	✓ Penal Code (employee only)	✓ Tort, contract & Labour Law	X	X	✓	✓	✓ Account of profits, delivery up or destruction	✓	? Possibly only applies to IPR and trade secret cases. Police may search on basis of criminal law but very rare	
<b>Poland</b>	✓ Unfair Competition	✓ Civil Code & Labour	✓ Unfair Competition	✓ Criminal Code	✓ Civil Law, Labour Law etc.	X	X	✓	✓	✓ Account of profits	✓ also includes possible restriction of	X but can secure evidence under Civil Procedure	

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	Unfair competition	Other	Unfair competition	Other									
		Code etc								liberty	Code		
<b>Portugal</b>	X	?	✓ Industrial Property code	✓ Criminal Code	Civil responsibility for illicit acts	X	✓ Some provisions implemented in IPC	✓	X	X	✓	✓ search in criminal process	
<b>Romania</b>	✓ Unfair Competition Act	X	✓ Unfair Competition Act	✓ Penal Code	X	✓ know how only	✓ to trade secrets also protected under copyright law	✓	✓	✓ Destruction or delivery up etc.	✓	X but may in theory be ordered in criminal proceedings	
<b>Slovak Republic</b>	✓ Commercial Code	✓ Commercial Code	✓ Penal Code	✓ Penal Code	X	✓	✓	✓	✓	✓ apology/removal	✓	✓ Usually executed by the police	
<b>Slovenia</b>	✓ Protection of Competition Act	✓ Companies Act Employment Relationships Act, Code of Obligations		✓ Penal code	X	In certain circumstances where considered a copyright or a registered industrial property right	ED implemented in copyright and Related rights Act and Industrial Property Act  Applicable to trade secrets in certain circumstances	✓	✓	?	✓	✓ A search is available in criminal proceedings, executed by the police.	
<b>Spain</b>	✓ Unfair Competition Act	X	X	✓ Criminal Code	✓ Law on Capital Companies and Workers Statute	✓ under TRIPS but not same protection as traditional IP	X	✓	✓	✓ removal/publication of decision etc.	✓ maximum of seven years imprisonment	✓	
<b>Sweden</b>	X	✓ Protection of Trade Secrets Act	X	✓ Protection of Trade Secrets Act	✓ Penal Code	X	X	✓	✓	✓ Delivery up/destruction	✓	✓ If giving defendant chance to respond would place claim at risk.	
<b>UK*</b>	X	X	X	X	No statutory	Sometimes	Court of Appeal	✓	✓	✓ delivery	X No Criminal	✓	

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	Unfair competition	Other	Unfair competition	Other								
<b>(English Law)</b>					provisions -claims brought under law of contract or law of equity	(see case law and rules of court on allocation)	says "accepted" it is applicable			up/account of profits etc	liability	