

Trade Secrets and Technology Transfer: Safeguarding American Innovation in U.S.–Nigeria Business Partnerships

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Abstract: In today's global digital economy, trade secrets play a crucial role in helping companies maintain a competitive edge, especially when operating across borders. This article explores the challenges of protecting trade secrets in U.S.–Nigeria business partnerships, where the need to safeguard confidential business information often clashes with Nigeria's need for technology transfer and economic development. While the United States has a strong and well-defined legal framework under the Defend Trade Secrets Act 2016, Nigeria relies on a less structured system based on common law, contracts, and limited statutory provisions. This gap creates uncertainty and increases the risks faced by U.S. companies doing business in Nigeria. Using a comparative approach, the article highlights the differences between both legal systems, particularly in terms of enforcement, remedies, and institutional strength. It also examines practical risks such as employee movement, cyber threats, and weak enforcement mechanisms. The article argues that protecting trade secrets and promoting technology transfer do not have to be opposing goals. Instead, a balanced approach can be achieved through strong contracts, internal security measures, and improved legal frameworks. The article concludes by recommending legal reforms in Nigeria, including the introduction of a comprehensive trade secrets law and stronger judicial capacity. Such reforms, combined with responsible business practices, can help create a more secure and cooperative environment for innovation and economic growth in U.S.–Nigeria partnerships.

Keywords: Trade secrets; technology transfer; U.S.–Nigeria partnerships; intellectual property; legal protection.

1. INTRODUCTION

In today's global and digital economy, protecting confidential business information has become very important for companies operating across borders. Trade secrets such as production methods, software, business plans, and strategies are a key part of a company's value and give it a competitive edge.¹ For companies from the United States expanding into developing markets like Nigeria, the challenge is not only entering the market but also ensuring that their sensitive information is properly protected in a legal environment that may not be fully developed.

At the same time, countries like Nigeria depend on foreign investment and technology transfer to support industrial growth, innovation, and economic development.² This creates a natural tension: while U.S. companies want to protect their valuable knowledge, Nigeria seeks access to such knowledge to strengthen its economy. This situation raises important

legal and policy questions about how to balance protection with development.

Unlike patents and copyrights, trade secrets do not require formal registration. Their protection depends on keeping the information confidential and relying on legal remedies when it is misused.³ In the United States, there is a strong legal system for this, especially under the Defend Trade Secrets Act 2016, which provides clear protection and remedies.⁴ In contrast, Nigeria does not yet have a specific law on trade secrets. Instead, it relies on common law, contracts, and a few scattered legal rules.⁵ This gap creates uncertainty for U.S. companies and may discourage deeper business and technology partnerships.

In addition, modern business practices such as digital communication, global supply chains, and employee movement have made trade secrets more vulnerable to theft or accidental disclosure.⁶ These risks are even higher in

¹ Mark A Lemley, 'The Surprising Virtues of Treating Trade Secrets as IP Rights' (2008) 61 *Stanford Law Review* 311

² United Nations Conference on Trade and Development (UNCTAD), *World Investment Report 2020* (UN 2020).

³ Robert P Merges, *Justifying Intellectual Property* (Harvard University Press 2011).

⁴ Defend Trade Secrets Act 2016, 18 USC § 1836

⁵ Freedom of Information Act 2011, s 15.

⁶ Sharon K Sandeen and Elizabeth A Rowe, *Trade Secret Law* (2nd edn, West Academic 2017).

international partnerships like joint ventures, licensing, and outsourcing.⁷ The problem becomes more serious in countries where legal enforcement is weak.

This article explores how U.S. companies can protect their trade secrets when doing business in Nigeria, while also supporting technology transfer that helps Nigeria's development. It argues that achieving this balance requires strong contracts, careful business practices, and improvements in Nigeria's legal system.

The article is divided into four main parts. After this introduction, Part II explains the key ideas of trade secrets and technology transfer. Part III looks at the U.S. legal framework, while Part IV discusses Nigeria's legal position. Part V compares both systems and highlights key challenges. Part VI provides recommendations for better protection and effective technology transfer.

2. CONCEPTUAL FRAMEWORK: TRADE SECRETS AND TECHNOLOGY TRANSFER

2.1 The Nature and Definition of Trade Secrets

Trade secrets are a special type of intellectual property. Unlike patents, which require public disclosure, trade secrets are valuable because they are kept confidential.⁸ The main international definition comes from *Article 39 of the TRIPS Agreement*, which states that information is a trade secret if it:

- a) is not generally known or easily accessible;
- b) has commercial value because it is secret; and
- c) has been protected through reasonable steps to keep it secret.⁹

This definition is widely accepted and forms the basis of trade secret protection in many countries.

In the United States, the Uniform Trade Secrets Act (UTSA) uses a similar definition, focusing on the economic value of secrecy and efforts made to protect it.¹⁰ The Defend Trade

Secrets Act 2016 (DTSA) strengthens this at the federal level by allowing companies to take legal action for misappropriation.¹¹

Trade secrets can include many types of business information, such as formulas, technical data, customer lists, marketing strategies, and software codes.¹² They are especially useful where an invention cannot be patented or where a company prefers not to make information public.¹³

However, trade secrets also have a weakness: once the information becomes public, the protection is lost.¹⁴ This makes it very important for companies to combine legal protection with practical measures to keep information secure.

2.2 Legal Basis of Trade Secret Protection

Trade secrets are mainly protected through actions against misuse, such as unauthorized access, disclosure, or use of confidential information.¹⁵ Protection can come from laws, contracts, and legal principles like breach of confidence.

In common law systems, the doctrine of breach of confidence is very important. It requires three elements:

- i. the information must be confidential;
- ii. it must be shared in a situation where confidentiality is expected; and
- iii. it must be used without permission in a way that harms the owner.¹⁶

This principle is still the main basis for trade secret protection in countries like Nigeria. Nigerian courts protect trade secrets by balancing the right to work with an employer's proprietary interests, primarily through the enforcement of reasonable restrictive covenants and the common law duty of confidence. As established in *Koumoulis v. Leventis Motors Limited*

¹¹ Defend Trade Secrets Act 2016, 18 USC § 1839(3).

¹² Elizabeth A Rowe, 'Trade Secret Litigation and Free Speech' (2008) 52 Boston College Law Review 1.

¹³ Michael Risch, 'Why Do We Have Trade Secrets?' (2007) 11 Marquette Intellectual Property Law Review 1.

¹⁴ Pamela Samuelson, 'Information as Property: Do Ruckelshaus and Carpenter Signal a Changing Direction in Intellectual Property Law?' (1989) 38 Catholic University Law Review 365.

¹⁵ UTSA 1979, § 1(2).

¹⁶ *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 (Ch).

⁷ David S Levine and Ted Sichelman, 'Why Do Startups Use Trade Secrets?' (2019) 94 *Notre Dame Law Review* 751.

⁸ Rochelle C Dreyfuss and Katherine J Strandburg, *The Law and Theory of Trade Secrecy* (Edward Elgar 2011).

⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights 1994, art 39.

¹⁰ Uniform Trade Secrets Act 1979, § 1(4).

(1973) 11 SC 100, a restraint of trade is valid if it is reasonably necessary to protect a "proprietary interest" such as confidential processes or customer connections. This protection extends beyond physical documents to digital assets, as seen in *Studio Press (Nigeria) Plc v. Kadoor & Anor* (2013) LPELR-20152(CA), where the misappropriation of technical data for a competitor's benefit was held to be a breach of confidence. Furthermore, the National Industrial Court reinforced in *Akinsanya v. Coca-Cola Nigeria Limited* (2010) 20 NLLR (Pt. 57) 301 that any unauthorized disclosure of sensitive internal records (even to a spouse), violates the fiduciary and contractual confidentiality obligations inherent in the employment relationship.

Specific contracts also play a major role, especially non-disclosure agreements (NDAs). These agreements clearly state that parties must keep information confidential and often include rules on how the information can be used, as well as penalties for breach.¹⁷ In international business, well-drafted contracts are often the most effective way to protect trade secrets.

2.3 Technology Transfer: Meaning and Mechanisms

Technology transfer refers to the sharing of knowledge, skills, and technologies between companies or countries.¹⁸ It is very important for economic development, especially in developing countries that need access to modern technologies. Technology transfer can happen in different ways, including: Licensing agreements, Joint ventures, Foreign direct investment (FDI), Franchising and Technical assistance agreements¹⁹

For Nigeria, technology transfer is essential for industrial development, reducing dependence on imports, and encouraging innovation.²⁰ However, it is not enough to simply

receive technology; the country must also be able to use and adapt it effectively.

2.4 Tension Between Protection and Transfer

One major issue in international intellectual property law is the balance between protecting trade secrets and allowing access to technology.²¹ Strong protection encourages companies to innovate because they can benefit from their efforts. However, too much protection can limit the spread of knowledge and slow down development in poorer countries.²²

This tension is clear in U.S.–Nigeria business relationships. The U.S. companies are often careful about sharing sensitive technology because they fear weak legal protection.²³ On the other hand, Nigeria wants more access to technology to support its economic growth.

To manage this situation, there must be a balanced approach. The law should protect companies while also encouraging responsible and beneficial technology transfer.

2.5 Risks Associated with Trade Secrets in Cross-Border Transactions

Doing business across borders increases the risks to trade secrets. Some of the main risks include

Employee movement, Cybersecurity threats, Weak legal enforcement, and Cultural and legal differences. Workers may move to other companies and take confidential knowledge with them.²⁴ This has formulated a number of disputes litigated in Nigerian Courts – as underscored in the above cases of *Koumoulis v. Leventis Motors Limited*, *Studio Press (Nigeria) Plc v. Kadoor & Anor*, and *Akinsanya v. Coca-Cola Nigeria Limited*. Also, digital systems can be hacked, leading to data leaks.²⁵ Organisations usually build systems around

¹⁷ Sharon K Sandeen, 'The Limits of Trade Secret Law' (2010) 83 Notre Dame Law Review 191.

¹⁸ Keith E Maskus, *Intellectual Property Rights in the Global Economy* (Institute for International Economics 2000).

¹⁹ World Intellectual Property Organization (WIPO), *Technology Transfer and IP* (WIPO 2014).

²⁰ C C Ajibo and others, 'Technology Transfer for Development in Nigeria: Patterns, Problems and Prospects' (2019) 45(1) *Commonwealth Law Bulletin* 70

²¹ Carlos M Correa, *Trade Related Aspects of Intellectual Property Rights: A Commentary* (Oxford University Press 2007).

²² Joseph E Stiglitz, *Globalization and Its Discontents* (Penguin 2002).

²³ Daniel Gervais (ed), *Intellectual Property, Trade and Development* (2nd edn, OUP 2014).

²⁴ Orly Lobel, *Talent Wants to Be Free* (Yale University Press 2013).

²⁵ A Nordberg, 'Trade Secrets, Big Data and Artificial Intelligence Innovation: A Legal Oxymoron?' in *The*

handling their trade secrets which may not be available or regarded when such gets to external hands. Trade secrets faces further risks where some countries may not have strong or efficient legal systems around it²⁶ and the fact that different business practices and laws can make enforcement difficult.²⁷

In Nigeria, these risks are higher because there is no specific law on trade secrets and limited court decisions on the issue.²⁸ As a result, U.S. companies often depend heavily on contracts and internal security measures when operating in Nigeria.

3. THE UNITED STATES LEGAL FRAMEWORK ON TRADE SECRET PROTECTION

3.1.1 3.1 Statutory Framework: The Defend Trade Secrets Act 2016

The current legal framework for trade secret protection in the United States is largely based on the **Defend Trade Secrets Act 2016 (DTSA)**, which created a federal civil cause of action for trade secret misappropriation.²⁹ Before the DTSA was enacted, trade secret protection mainly depended on state laws that were based on the **Uniform Trade Secrets Act (UTSA)**.³⁰ The DTSA therefore introduced greater uniformity by providing a federal standard while still allowing state laws to operate alongside it.

Under **18 USC § 1836(b)(1)**, trade secret owners can bring civil actions in federal courts when their trade secrets are misappropriated.³¹ The Act defines “misappropriation” broadly to include the improper acquisition, disclosure, or use of trade secrets without authorization.³² This wide definition ensures that many forms of wrongful conduct are covered by the law.

An important feature of the DTSA is its **extraterritorial reach**. *Section 1837* states that the Act can apply to conduct

Harmonization and Protection of Trade Secrets in the EU (Edward Elgar 2020).

²⁶ Ibid.

²⁷ John H Dunning, *Multinational Enterprises and the Global Economy* (2nd edn, Edward Elgar 2008).

²⁸ Pam and Mantu, ‘An Appraisal of the Legal Framework on Confidential Information and Trade Secrets in Nigeria’.

²⁹ Defend Trade Secrets Act 2016, 18 USC § 1836.

³⁰ Uniform Trade Secrets Act 1979.

³¹ Defend Trade Secrets Act 2016, 18 USC § 1836(b)(1).

³² *ibid* § 1839(5).

occurring outside the United States if the offender is a U.S. citizen or if part of the wrongful act occurred within the United States.³³ This is particularly relevant for U.S.–Nigeria business partnerships because it allows U.S. companies to pursue legal remedies even when the misuse of trade secrets occurs partly abroad.

Another important provision is the possibility of **ex parte seizure orders** under **18 USC § 1836(b)(2)**.³⁴ In exceptional cases, courts may order the seizure of property necessary to prevent the spread of trade secrets without notifying the defendant beforehand. Although courts use this remedy cautiously, it demonstrates how seriously U.S. law treats trade secret protection.

3.1.2 3.2 Judicial Interpretation and Case Law

Plausibly, U.S. courts have played a key role in developing trade secret law through judicial decisions. In *DuPont v Christopher*, the court held that trade secret misappropriation could occur even without physical trespass.³⁵ In that case, the defendants used aerial photography to obtain confidential information about a chemical plant under construction. The court ruled that this method amounted to improper conduct, thereby expanding protection against industrial espionage.

Another important decision is *PepsiCo Inc v Redmond*, where the court applied the “**inevitable disclosure**” doctrine.³⁶ The court held that an employee could be prevented from working for a competitor if it was highly likely that the employee would use the former employer’s trade secrets in the new role. This case highlights the risks associated with employee mobility.

In *Silvaco Data Systems v Intel Corp*, the court clarified that merely possessing trade secret information does not automatically amount to “use.”³⁷ Instead, there must be evidence that the information was actually exploited. This distinction is particularly important in complex technological industries.

³³ *ibid* § 1837.

³⁴ *ibid* § 1836(b)(2).

³⁵ *E.I. duPont de Nemours & Co v Christopher* 431 F 2d 1012 (5th Cir 1970).

³⁶ *PepsiCo Inc v Redmond* 54 F 3d 1262 (7th Cir 1995).

³⁷ *Silvaco Data Systems v Intel Corp* (2010) 184 Cal App 4th 210.

These cases show that U.S. courts have developed flexible legal principles to address different forms of trade secret misuse, especially in modern technology-driven sectors.

3.1.3 3.3 Remedies Under U.S. Law

The DTSA provides several strong remedies for trade secret owners. According to the Act, Courts may grant:

- (i) **Injunctive reliefs** to prevent actual or threatened misappropriation (18 USC § 1836(b)(3)(A));³⁸
- (ii) **Damages** for financial loss and unjust enrichment (18 USC § 1836(b)(3)(B));³⁹
- (iii) **Exemplary damages**, which may be up to twice the amount of damages where the misappropriation is willful and malicious;⁴⁰
- (iv) **Attorney’s fees** in exceptional circumstances.⁴¹

These remedies act as strong deterrents against trade secret theft and help maintain confidence among investors and businesses. For U.S. companies operating internationally, the ability to seek remedies in federal courts provides an additional level of protection.

3.1.4 3.4 Contractual and Corporate Safeguards

In addition to statutory protection, U.S. companies rely heavily on **contractual measures** to protect trade secrets. These often include non-disclosure agreements (NDAs), non-compete clauses, and confidentiality provisions.⁴² Such agreements are usually designed to address cross-border risks and may include clauses on jurisdiction, dispute resolution, or arbitration.

Companies also adopt **internal corporate safeguards**, such as employee training programs, restricted access to sensitive

information, and cybersecurity measures.⁴³ In international partnerships, these internal policies often serve as the first line of defence against the loss or misuse of confidential information.

4. THE NIGERIAN LEGAL FRAMEWORK ON TRADE SECRETS

4.1.1 4.1 Absence of a Comprehensive Statutory Regime

Unlike the United States, Nigeria does not currently have a specific statute that directly regulates trade secrets.⁴⁴ This represents an important gap in the country’s intellectual property system, especially as international trade and foreign investment continue to grow.

Trade secret protection in Nigeria is therefore based on a combination of: **Common law principles, Contract law** and or **Limited statutory provisions**

Because these rules are scattered across different legal sources, the system can appear uncertain to investors and businesses seeking strong protection for confidential information.

4.2 Protection Under the Doctrine of Breach of Confidence

The main legal basis for protecting trade secrets in Nigeria is the **equitable doctrine of breach of confidence**, which originates from English common law.⁴⁵ Nigerian courts generally follow the principles established in *Coco v AN Clark (Engineers) Ltd*,⁴⁶ which introduced a three-part test for determining liability.

Under this test, a claimant must show that:

- a) The information is confidential;
- b) It was disclosed in circumstances that created an obligation of confidence;
- c) The information was used without authorization.⁴⁷

³⁸ Defend Trade Secrets Act 2016, 18 USC § 1836(b)(3)(A).

³⁹ *ibid* § 1836(b)(3)(B).

⁴⁰ *ibid* § 1836(b)(3)(C).

⁴¹ *ibid* § 1836(b)(3)(D).

⁴² Sharon K Sandeen and Elizabeth A Rowe, *Trade Secret Law* (2nd edn, West Academic 2017).

⁴³ Peter S Menell, ‘Intellectual Property and the Property Rights Movement’ (2007) 30 Regulation 36.

⁴⁴ Pam and Mantu (n 28).

⁴⁵ Adamu Audu Pam and John Ishaku Mantu, ‘An Appraisal of the Legal Framework on Confidential Information and Trade Secrets in Nigeria’ (2019) SSRN Electronic Journal.

⁴⁶ *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41 (Ch).

⁴⁷ *ibid*.

Nigerian courts have applied these principles in several employment and commercial disputes. However, because these rules are not codified in a specific statute, court decisions may sometimes vary depending on judicial interpretation and varying factual circumstances of each case.

4.3 Statutory Provisions Relevant to Trade Secrets

Although Nigeria lacks a specific trade secrets law, certain statutes offer **limited protection**. For example, *section 15 of the Freedom of Information Act 2011* protects trade secrets and commercial information from disclosure if such disclosure would harm the competitive position of a business.⁴⁸ Although this law was not created specifically for trade secrets, it demonstrates legislative recognition of the importance of confidential business information in Nigeria.

In addition, parties may protect trade secrets through **contractual agreements**, such as non-disclosure agreements and confidentiality clauses, which are enforceable under Nigerian contract law.⁴⁹ However, enforcing such agreements may be challenging due to delays and other procedural issues within the legal system.

4.4 Judicial Attitude and Enforcement Challenges

Nigerian courts generally acknowledge the importance of protecting confidential business information.⁵⁰ However, enforcement is sometimes inconsistent due to several factors, including: the absence of specialised intellectual property

courts, delays in litigation or limited technical expertise in complex commercial disputes. Most decisions on trade secrets now flow from the determinations of the National Industrial Court (NIC), over employment issues. This Court may not always have the specialised experience required for complicated intellectual property matters.⁵¹

4.5 Practical Implications for U.S. Companies

Given these legal limitations, U.S. companies doing business in Nigeria must adopt **proactive strategies** to protect their trade secrets. These strategies may include:

- i. using strong contractual agreements
- ii. implementing internal security and confidentiality policies
- iii. carefully selecting reliable local partners

In some cases, companies may also limit the transfer of their most sensitive technologies in order to reduce the risk of misappropriation.⁵²

5. COMPARATIVE ANALYSIS: U.S. AND NIGERIAN TRADE SECRET REGIMES

A comparison of the United States and Nigerian legal systems shows clear differences in how trade secrets are protected, especially in terms of laws, enforcement, and institutional strength.

First, the United States has a **well-developed and codified system**, mainly based on the Defend Trade Secrets Act 2016. This law provides a clear definition of trade secrets, strong remedies, and access to federal courts.⁵³ In contrast, Nigeria does not have a specific trade secrets law and instead relies on common law and scattered legal provisions.⁵⁴ This lack of a clear framework creates uncertainty and could make legal outcomes less predictable.

Second, enforcement differs greatly. In the United States, federal courts are experienced in handling such subject matter

⁴⁸ Freedom of Information Act 2011, section 15. (1) A public institution shall deny an application for information that contains—

(a) trade secrets and commercial or financial information obtained from a person or business, which is of a privileged or confidential nature;

(b) information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party; and

(c) proposals and bids for any contract, grants, or agreements, including information which if it were disclosed would frustrate procurement or give an advantage to any person.

⁴⁹Nigerian Contract Law principles (see *Orient Bank (Nig) Plc v Bilante International Ltd* (1997) 8 NWLR (Pt 515) 37).

⁵⁰ Marius Schneider and Vanessa Ferguson, 'Nigeria' in *Enforcement of Intellectual Property Rights in Africa* (OUP 2020)

⁵¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 272

⁵² Dunning (n 27).

⁵³ Defend Trade Secrets Act 2016, 18 USC § 1836.

⁵⁴ Aifuwa Edosomwan, 'Protecting Intellectual Property Rights in Nigeria: A Review of the Activities of the Nigerian Copyright Commission' (2019) 58 *World Patent Information* 101908

cases and have strong procedural tools such as discovery and injunctions.⁵⁵ In Nigeria, however, courts often face challenges like delays, limited technical expertise, and lack of resources.⁵⁶ These issues reduce the effectiveness of trade secret protection.

Third, the remedies available are not the same. U.S. law provides a wide range of remedies, including injunctions, damages, exemplary damages, and attorney’s fees.⁵⁷ In Nigeria, remedies are mostly limited to injunctions and damages under common law, and there is often less clarity on how damages should be calculated.⁵⁸

Finally, U.S. law has **extraterritorial application**, which makes it more effective in international cases.⁵⁹ Nigerian law does not have similar provisions, making it harder to deal with cross-border misuse of trade secrets.

Overall, these differences mean that while U.S. companies are well protected at home, they face greater risks when operating in Nigeria.

6. CHALLENGES IN U.S.–NIGERIA BUSINESS PARTNERSHIPS

6.1 Weak Legal and Institutional Frameworks

One major challenge is the weakness of Nigeria’s legal system for protecting trade secrets. The absence of a clear and comprehensive law creates gaps that can be exploited, especially in complex business transactions.⁶⁰ Delays in court processes and weak enforcement systems make the situation more difficult.

6.2 Risks of Employee Mobility and Insider Threats

Employee movement is another serious risk. Skilled workers often carry valuable confidential knowledge, which may be shared with competitors.⁶¹ This risk is higher in countries where non-compete agreements are difficult to enforce.

6.3 Cybersecurity and Digital Vulnerabilities

With the increasing use of digital systems, trade secrets are more exposed to cyber threats such as hacking and data breaches. Cross-border data transfers and online storage also increase the risk of unauthorized access.

6.4 Cultural and Commercial Practice Differences

Differences in business culture and legal understanding can also affect trade secret protection.⁶² Some local partners may not fully understand or prioritise confidentiality obligations, leading to accidental disclosures.

6.5 Regulatory and Policy Uncertainty

Frequent policy changes and unclear intellectual property rules in Nigeria can discourage foreign investment.⁶³ For U.S. companies, uncertainty about how well their rights will be protected may limit their willingness to transfer technology.

7. SAFEGUARDING AMERICAN INNOVATION IN NIGERIA

To effectively manage the risks associated with trade secret exposure in cross-border transactions, U.S. companies operating in Nigeria must adopt a comprehensive and multi-layered strategy that integrates legal, contractual, and practical safeguards. Such an approach ensures that protection is not dependent on a single mechanism but reinforced through overlapping measures.

First, robust contractual protection remains the most reliable tool for safeguarding trade secrets in international business relationships. Carefully drafted agreements such as non-disclosure agreements (NDAs), confidentiality clauses, and non-compete provisions play a critical role in defining the rights and obligations of parties.⁶⁴ These contracts should explicitly address key issues such as jurisdiction, applicable law, and dispute resolution mechanisms. In particular, the inclusion of arbitration clauses can provide a more efficient and predictable means of resolving disputes, especially in jurisdictions where judicial processes may be slow or uncertain.

⁵⁵ Sandeen and Rowe (n 6).

⁵⁶ Edosomwan (n 54).

⁵⁷ Defend Trade Secrets Act 2016, 18 USC § 1836(b)(3).

⁵⁸ Pam and Mantu, ‘An Appraisal of the Legal Framework on Confidential Information and Trade Secrets in Nigeria’.

⁵⁹ Defend Trade Secrets Act 2016, 18 USC § 1837.

⁶⁰ Edosomwan (n 54).

⁶¹ Lobel (n 24).

⁶² Dunning (n 27).

⁶³ Daniel Gervais, ‘Intellectual Property, Trade & Development’ (2007) 30 *Fordham International Law Journal* 102

⁶⁴ Sandeen (n 17).

In addition, companies must adopt a strategic approach to the structuring of technology transfer. Rather than disclosing sensitive information wholesale, firms should limit access to highly confidential data, ensuring that only essential personnel or partners are granted exposure. Technology should be transferred incrementally, allowing companies to monitor its use and assess risks at each stage. Furthermore, retaining control over critical components of the technology such as core algorithms or proprietary processes can significantly reduce the likelihood of misappropriation while still enabling productive collaboration.

Equally important are internal security measures within the organization. Effective protection of trade secrets requires the implementation of strict access controls to confidential information, ensuring that only authorized individuals can obtain sensitive data. Regular employee training is also essential to promote awareness of confidentiality obligations and the importance of safeguarding proprietary information. Alongside this, the deployment of robust cybersecurity systems helps to prevent unauthorized access, data breaches, and other forms of digital exploitation.⁶⁵ Collectively, these internal mechanisms not only reduce the risk of misuse but also strengthen a company's legal position in the event of a dispute.

8. ENCOURAGING RESPONSIBLE TECHNOLOGY TRANSFER

While protecting trade secrets is important, it should not prevent Nigeria from benefiting from technology transfer. One of such strategies underpin the promotion of collaborative partnerships. Joint ventures and strategic partnerships allow companies to share knowledge while still protecting core trade secrets.⁶⁶ These arrangements support both innovation and local development. Again, Nigeria could drive strategic steps in **capacity building and skills development**. Technology transfer should include training and knowledge-sharing programmes.⁶⁷ This helps Nigeria build the skills needed to use and improve on imported technologies. Other strategies with which Nigeria can improve its system include:

8.1 Legal and Policy Reforms in Nigeria

- a) Enacting a specific Trade Secrets Act
- b) Creating specialised intellectual property courts
- c) Strengthening enforcement mechanisms

These reforms would increase investor confidence and support economic growth.

8.2 Bilateral and International Cooperation

Cooperation between the United States and Nigeria can provide stronger protection for intellectual property.⁶⁸ International frameworks like TRIPS can also help align legal standards.

9. RECOMMENDATIONS

Based on this analysis, the following steps are recommended:

1. Nigeria should enact a comprehensive trade secrets law to provide clarity, legal certainty, and stronger protection for confidential business information.
2. Judicial capacity should be strengthened through the establishment of specialised courts and the training of judges to improve the enforcement of trade secret rights.
3. U.S. companies should rely on detailed and enforceable contractual agreements as an additional layer of protection against misappropriation.
4. There is a need to promote balanced technology transfer policies that foster both innovation and sustainable development within Nigeria.
5. Both parties should invest in robust cybersecurity measures to safeguard sensitive digital information from unauthorized access, breaches, and industrial espionage.

10. CONCLUSION

Trade secrets are essential for innovation and competitive advantage in today's global economy. For U.S. companies doing business in Nigeria, protecting proprietary information is very important. At the same time, Nigeria needs access to

⁶⁵ Menell (n 43).

⁶⁶ Maskus (n 18).

⁶⁷ Ajibo and others (n 20).

⁶⁸ Correa (n 21).

technology to support its development. This study shows that the United States has a strong and well-structured system for trade secret protection, while Nigeria's system is still developing. This difference creates challenges for cross-border partnerships and may limit technology transfer. To address this, a balanced approach is needed. Legal reforms in Nigeria, strong contractual protections, and better institutional systems can help create a fair environment. With these measures in place, it is possible to protect innovation while also supporting sustainable economic growth.

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