



*Trade Secrets Wars In Taiwan*  
**台灣的營業秘密戰爭**

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# *The Characteristics of Trade Secrets Wars in Taiwan (1)*

1. All trade secrets litigations, including  
civil and criminal, will go to Taiwan  
Intellectual Property Court,  
(High Court level, TIPC)  
then, to the Supreme Court



# **The Establishment of Taiwan IP Court**

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## **The Origins of the IP Court**

### **Intellectual Property Court Organization Act**

(passed on March 5, 2007, promulgated on March 28 2007, enforced on July 1, 2008)

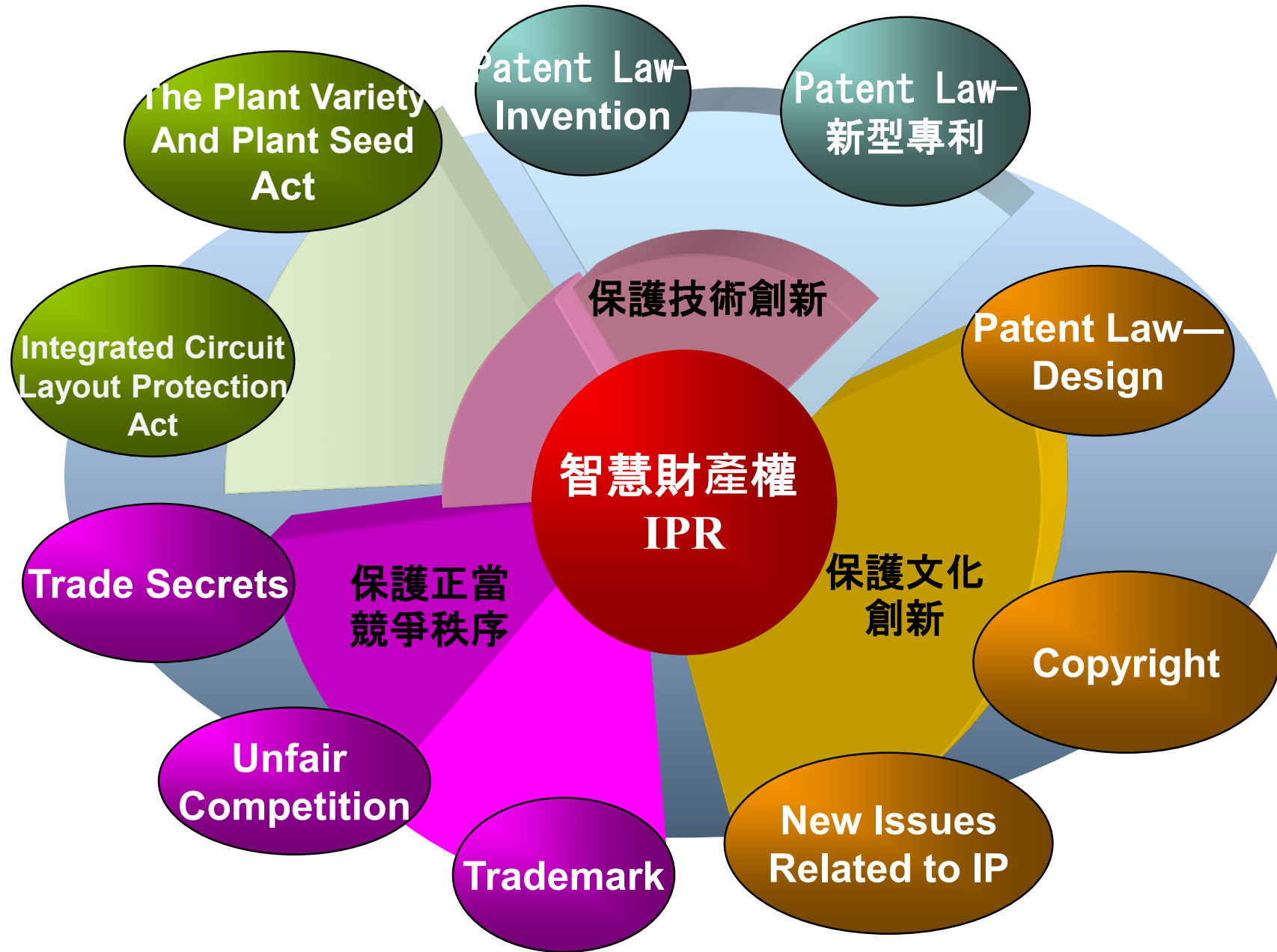
### **Intellectual Property Case Adjudication Act**

(passed on Jan. 9, 2007, promulgated on March 28 2007, and enforced on July 1, 2008)

## **The Establishment of the IP Court**

**The IP Court was established officially on July 1, 2008.**

# 智慧財產法院之審理範圍



# Jurisdiction of TIPC



## Administrative Action

- Administrative actions related to IPR disputes, including the validity actions of patent & trademark right

## Civil Action

Civil actions of the 1st & 2nd instance related to

- Patent Act
- Trademark Act
- Copyright Act
- Optical Disk Act
- Trade Secrets Act
- Fair Trade Act
- Others

## Criminal Action

- Criminal actions of the second instance related to IPR
- Excluding Juvenile criminal cases

**TIPC  
Jurisdiction**

# **The Trend of Trade Secrets Cases in TIPC**

The Trend of Trade Secrets Cases in TIPC

## *The Characteristics of Trade Secrets Wars in Taiwan (2)*

2. Most trade secrets litigations are wars between a company and its former employers who are hired by the company's competitive or ***potential competitive*** company

# *From Domestic Wars to Regional/International Wars*

- The most famous trade secrets case in Taiwan:
- ***Taiwan v.s Korea***
- TSMC v.s a former director of R&D, hired by Samsung
- Preliminary injunctive (2011~2013)  
Civil litigation, from TIPC to the  
Supreme Court (2013~2015) **TSMC WON**





# ***From Domestic Wars to Regional/International Wars***

- ***Taiwan v.s Mainland China***
- Hon Hai (Foxconn) v.s. a former manager hired by Perlos Co.
- (Taiwan Taipei District Court, 2010)
- AUO v.s. former executives hired by China Star Optoelectronics
- (Hsinchu Dis. Ct. Dec., 2014)

# *The Disadvantages of Trade Secrets Wars in a Civil Court*

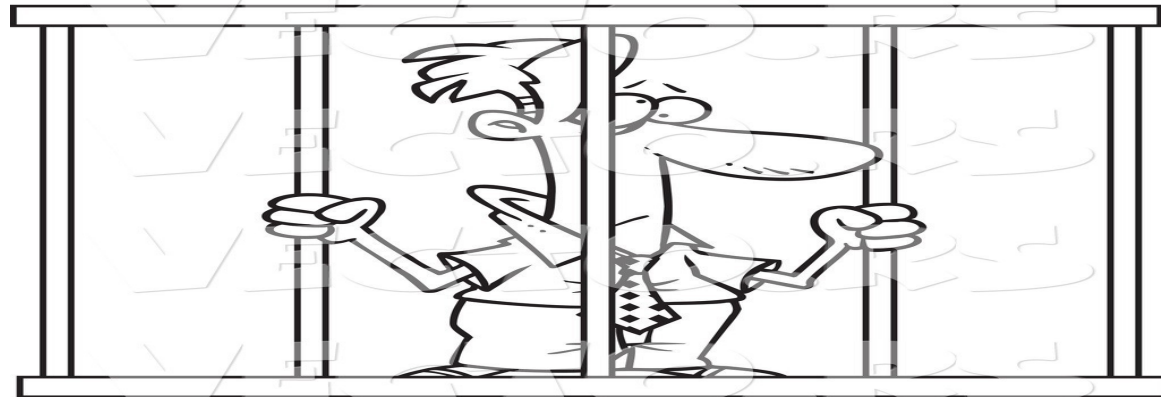
- Hard to prove the secrecy, infringing acts and damages
- No discovery system in Taiwan
- MediaTech v.s. a former employee hired by MStar (1998-2012)
- Article 317 of the criminal law, no reason to industrial secrets shall be sentenced to imprisonment than one year and can be fined.



# *The Characteristics of Trade Secret Wars in Taiwan (3) — Criminalization*

## *Taiwan Amends Its Trade Secret Act*

- A violator will be sentenced to up to **five yrs** imprisonment, while misappropriation of trade secrets outside of Taiwan, including China, Hong Kong or Macau, will be liable for a statutory sentence of between **at least one year and a maximum of ten years**.



## *The Characteristics of Trade Secret Wars in Taiwan (4)-Prevention*

- The pressure from the big neighbor/
- Cross-strait trade secrets wars
- Self protection is better than rely on the government/ General Council of TSMC
- Trade Secrets & Corporate Governance
- Taiwan Trade Secrets Protection Association/ 2016/4/28

# *The Characteristics of Trade Secret Wars in Taiwan*

## *(4)-Prevention*

- Taiwan Trade Secrets Protection Association works with Intellectual Property Office to organize Industry visiting for policemen, prosecutors and judges.

Ministry of Justice, Intellectual Property Court or AIT, even US Ministry of Justice held seminars or workshops on trade secrets

Ex.2019 International Seminar on Digital Piracy and Trade Secrets/2019/4, experts from U.S. Department of Homeland Security and Computer Crime & Intellectual Property Section

## *Trade Secrets Wars after Amendments*

- Ministry of Justice issued **The Guideline for Handling Major Trade Secret Cases in the Prosecuting Authority**, April 19, 2016
- The prosecutor should request the complainant or the victim to fill out the **Case Detail Explanation Form** including basic information, Trade secret concerned in the case, Content of trade secret concerned in the case and measures of protection of the targets etc..



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