Trade Secret Law Evolution Podcast
Greenberg Traurig, LLP
Episode 66

[Introduction] (00:00):

This podcast episode reflects the opinions of the hosts and guests and not of Greenberg Traurig, LLP. This episode is presented for informational purposes only, and it is not intended to be construed or used as general legal advice nor a solicitation of any type. Welcome to the Trade Secret Law Evolution Podcast where we give you comprehensive summaries and takeaways on the latest developments and trends in trade secret law. We want you to stay current and ahead of the curve when it comes to protecting your company's most valuable assets. I'm your host, Jordan Grotzinger.

Jordan Grotzinger (00:38):

Hi everybody, and welcome to episode 66 of the podcast. This is another exciting one. Today, I have with me Bridget Smith, who is the assistant general counsel and director of IP of Relativity Space, which is a rocket company. I'm very excited about this. You don't usually get GCs from rocket companies. We met at a trade secret conference in March, I believe, in San Jose. And we were panelists in that conference. And after getting to know her a little bit, I thought she'd be a great guest. Bridget, welcome. You have a cool job. Please tell us about what you do and about relativity.

Bridget Smith (01:20):

Thank you so much. I do have a cool job. And I am excited to be here because you probably remember that we had had this whole conversation about this, that I am a huge consumer of podcasts. I have a long commute from Orange County where I live to Long Beach where I work, and I listen on my commute up there, I listen on my commute back, I listen when I'm in mom mode driving my kids around to lessons, when I brush my teeth in the morning, and then when I'm getting ready for bed. I love podcasts because my brain just craves listening to passionate people talk about the things that interest them the most. And I find IP really interesting, so I'm going to do my very best to convey my passion to your listeners. And honestly, this feels like a big career achievement for me because now I'm in a podcast.

Jordan Grotzinger (02:12):

I'm already feeling it. I love it. We're cut from the same cloth. And actually, don't forget... Remind me, please. I can't remember if I emailed you, but I've got another great one that I learned about since we met, and I'll talk to you offline about that.

Bridget Smith (02:31):

That is awesome. And yeah, I forgot to answer your question because I'm so excited and so stoked to be here that I forgot to introduce myself. I'm, as you had mentioned, the director of IP at Relativity Space. I've been here two and a half years. And that means that I'm in charge of everything related to IP here: patent strategy, trade secrets, open source, trademarks, IP in contracts. And I work hard to get processes in place to increase value and reduce risk and critically to operationalize those processes. And that means ensuring that these processes that I have set up happen repeatably and regularly and

crucially scale with the size of the company. That's what I do. I design strategies that scale. I try and be a trusted advisor for our executive team so that they can sleep at night and know that of the 99 problems they face every day, IP ain't one of them because I'm at the helm and I'm taking care of it. And it's a very hard job, but I'm up to the challenge.

(03:39):

Yeah. Oh, and what I should mention that I am not here speaking on behalf of Relativity, I'm just here speaking as myself. And like everyone, I am a human being who gets things wrong, and she's just growing and learning and doing her best. Aren't we all? And I will definitely do my best for you today.

Jordan Grotzinger (03:57):

I love that. And we appreciate that. You must have a pretty broad range of responsibilities if you're in charge of it for a rocket company. Yeah, I can imagine how busy you are. I've looked at the Relativity website, and it's quite fascinating. It says that you've built and launched the world's first 3D printed rocket, which sounds awesome. And I want you to tell us about that, but before you do, I'm going to show you... Our listeners can't see this obviously because this is an audio podcast, but we're facing each other on Zoom. When I think of 3D printed objects, I think of things like this. This is a Jordan sneaker printed by one of my colleagues, Jonathan Widjaja, who has actually been a co-host on the podcast. And he is a pretty accomplished 3D printer. And this was a holiday gift, which I keep on my shelf here. But it seems to be made out of plastic threads. 3D printed rocket; tell us about that.

Bridget Smith (05:08):

Yeah, yeah. By the way, it is awesome, and I was there for it. When we launched, that was really just so exciting. This was our first rocket, Terran 1. And it was a concept car for relativity. It was over 80% 3D printed, and that means everything from the engine structures to the stage structures, which means the outside shell of it. To my knowledge, it was not only the tallest 3D printed structure made at the time, it may still be the tallest 3D printed structure ever made, but it's also the biggest 3D printed structure launched into space by any measure. Yeah. We're not talking about the plastic filament printers that so many of us have in our garage. I know, we have a couple of them, and they're really fun to use, but yeah, they are not structurally sound. These are laser powder bed fusion printers, which take a metal powder and center it in place, and they form solid structures. And you build them up layer by layer into pieces. And we do those for the structures like the engine that require a lot of detail and fidelity.

(06:26):

And then we also have our proprietary Stargate wire arc direct energy deposition printers, or wire arc additive manufacturing printers. They have different names or acronyms for it. And those print wires that are melted in place, and then, again, built up layer by layer so that you print in place. In some regards, it looks visually similar to a plastic printer because you do have that filament, but it is a wire. Very, very complex and different process as you might imagine that it takes to make metal versus the making plastic, which was meant to melt, whereas these other wires were really not designed for that purpose at all.

(07:10):

It was an audacious undertaking because things that large that are 3D printed with metal are rare, and even rarer are those with the structural integrity to withstand-

Jordan Grotzinger (07:21):

Fly around in space.

Bridget Smith (07:22):

... [inaudible 00:07:22] of launch. Yeah. And little Terran 1 successfully withstood Max Q, which we were really proud of. And that's the maximum dynamic pressure. And it's a very important design consideration for aerospace vehicles. And if you've ever watched our launch, when we passed Max Q, one of our co-hosts there, I can't remember who it was, had celebrated really loudly and blew out everyone's ear drum when we passed Max Q. It was really exciting to share that launch day with everyone who worked so hard and to do something that had never been done before. And it's definitely something I'll never forget.

Jordan Grotzinger (08:01):

Okay, this episode is already way more interesting than the bread and butter developments and case law episodes. I have a bunch of questions. You answered some of them, the first one being what is it made of? And you mentioned a metal powder. I'm curious, is the composition of the metal that you use something that the company devised? In which case I would imagine it might be a trade secret. Or is that not a secret piece of information?

Bridget Smith (08:36):

Yeah, we use a lot of different powders. And some of them we buy commercially off the shelf, some of them we get from NASA. I think NASA has a post about that. And so our wire on the other hand is definitely proprietary. And in fact, it was one of the things that I filed my first patent application when I got here on. The wire composition of one of the wires that we use, we use several different wires, we have a pending patent application on them. There's other wires that are in development that at different phases, and those are definitely trade secret. It depends what phase of the process the materials at, but materials are very important to our company.

Jordan Grotzinger (09:22):

Right. How long did it take? Well, let me back up. Was this a single printer that made this rocket?

Bridget Smith (09:30):

No, not at all. We have a whole army of powder bed fusion printers. And the Stargate printers is not just one printer, there's several Stargate printers. And even since we've built Terran 1, we've put even more into the stable of printers that are available. The ones that printed Terran 1, they printed from the... I don't know how... I'm trying to do this visually in a non-visual environment. They printed vertically, let's just put it that way. We started at the ground and you print toward the ceiling. And since then, we've developed a new technology that allows us to print horizontally. It's turned on its side and it prints out in the horizontal direction. But it can do very large structures going out. And yeah, there's many Stargate printers of different sizes, and we use many different sizes and classes of powder bed fusion printers.

Jordan Grotzinger (10:31):

The rocket that you printed, it's called Terran 1, am I pronouncing that correctly?

Bridget Smith (10:36):

That's right. Terran, T-E-R-R-A-N.

Jordan Grotzinger (10:39):

Now, my colleague, John, who prints plastic stuff like that Air Jordan shoe that I showed you, he tells me that even for small stuff like that, it takes hours and hours, and bigger things like the size of a mask or a basketball or something can take a day or more. How long did it take those printers to print Terran 1?

Bridget Smith (11:02):

Yeah, that's a great question, and I probably should have prepared. I don't know the flight parts that actually flew. I don't know the answer to that question. But it's so funny that when I think about Relativity, one of the first things that popped in my head... I think it was during my interview here, and I was walking through it and I was reminded of the Carl Sagan quote that he said, "If you wish to make an apple pie, first you must invent the universe." And so it was like, yeah, I guess that we invested a lot of time. It takes a very long time to print. We're talking about a very, very thin filament of wire, and it just goes around and around and around, so it takes many, many hours to print something like that.

(11:52):

But to have the printer that was available to do that in the first place also took a lot of iterations. To emphasize, there was nothing out there. Stargate is not a commercial product that you could buy off the shelf; they needed to invent it first. And there was a lot of iteration and design that went into that. Just to go through the process of having a printer that can do that in the first place, it took several years. But I think when I started, which was two years ago, we had just recently celebrated our fifth anniversary. It's pretty remarkable what the team there was able to accomplish in such a short amount of time.

Jordan Grotzinger (12:28):

Incredible. Are these printers located here in Southern California?

Bridget Smith (12:31):

They are. We have-

Jordan Grotzinger (12:34):

Can people like me come see them if you let me in, or is that off limits?

Bridget Smith (12:38):

No, no, we definitely have tours available for select people. And maybe if you bribe me with some swag, I'll see what I can do.

Jordan Grotzinger (12:47):

Absolutely.

Bridget Smith (12:50):

I'm kidding. But yeah, you don't have to bribe me; I'm a nice person. Yeah, we have two facilities here in southern California with printers in them. There's our headquarters, which is just adjacent to the Long Beach Airport. It's the old Boeing facility that made the Globemaster. It's a million square feet. It's a really incredible building to... I walked around the perimeter of it with my friend the other day doing just a one-on-one where we were talking about things we were working on and things that we had planned. And for us to do the perimeter of the building, it was 0.7 miles. That's a big building. That's a very big building. And then we have-

Jordan Grotzinger (13:37):

Enough space for sure.

Bridget Smith (13:38):

Yeah. The interior is a million square feet, the exterior, if you walk around the perimeter is 0.7 miles. And then we have a smaller R&D building, which is where Terran 1 was built. I don't know how big that one is. It's maybe 200,000 or 300,000 square feet, I'm going to guess. And it's also in Long Beach very, very close to the headquarters. Yeah, those were where our 3D printers are all located.

Jordan Grotzinger (14:08):

Well, I'd definitely love to see it. And I'll bug you offline about that for sure. As I mentioned, you're a rocket company, but a guy like me can go on the internet. You have a website; it talks about your products and processes to an extent. Who are Relativity's customers? Are we talking private sector, governments, a particular business sector? What?

Bridget Smith (14:35):

Yeah, we have private customers looking to put satellites in LEO, or lower earth orbit, and then US government agencies. Primarily for our next generation rocket, which is Terran R, our primary customers are just going to be people who have satellites to put up and are looking to do that, looking for a carrier to do that. We have several announced contracts, I think, that are on our website. I would rattle them off, but I don't know them.

Jordan Grotzinger (15:05):

Understood. And we don't want names on this podcast.

Bridget Smith (15:08):

Exactly.

Jordan Grotzinger (15:09):

What can you say about how your job involves trade secrets? Obviously without revealing anything that you can't reveal.

Bridget Smith (15:18):

Yeah, absolutely. I would say that trade secrets are occupying most of my brain cells most of the time. And-

Jordan Grotzinger (15:27):

I know the feeling.

Bridget Smith (15:30):

Yeah, My brain is pretty busy, but yeah, trade secrets occupies the lion's share of the time. And that's an understatement. And I'm always keeping in mind two sides of the trade secret coin. And I hate these words, but I can never really think of another word for them. It would be ingestion and exfiltration. And for the first-

Jordan Grotzinger (15:50):

Sorry, what's the second one?

Bridget Smith (15:50):

Exfiltration.

Jordan Grotzinger (15:50):

Exfiltration.

Bridget Smith (15:54):

Yeah, exfil. For the first one, Relativity respects IP rights of others. We want to be a good player in the industry. I want everybody to play fair and just succeed on the basis of just having really good technology and a really good business. And my job is to ensure that the trade secrets of others don't contaminate our processes in a way that their owners wouldn't want, and we don't want either for sure.

(16:24):

And just as importantly, there are exactly two sides. One is just as important to me as the other, and that's exfiltration. It's stopping our own trade secrets from leaving. And trade secrets, the reason why I'd say that this occupies most of my brain most of the time, they're just very historically important for the aerospace industry. I don't see that changing anytime soon. And for that reason, a huge part of Relativity's IP are trade secrets, and therefore a big part of my job is about paying attention to them.

Jordan Grotzinger (16:56):

When you mentioned those responsibilities... I'm going to jump around a little bit. I know we had some discussions about topics in a certain order. I'm going to go out of order a little bit, but one of the things I wanted to discuss was the reasonable measures to protect secrecy requirement of trade secrets, the third element. As I've said many times on this podcast, I generally view that requirement as falling into three buckets. One, contracts and company policies, two, technology, and three, physical, like marking stuff and literally locking your doors. Would you say that you accomplished those responsibilities within the... I'm not going to try to remember the two words you gave, but basically preventing from contamination of others trade secrets and preventing your own from getting out. Would you say that your work to ensure that no contamination, no exfiltration, I think is the word, fall in those three buckets? Or is there more that you can say that you think we also do this to do these things?

Bridget Smith (18:15):

Yeah, that's great. It probably falls within the scope of contracts and policies, but I would just consider education and outreach to be of paramount importance. And in fact, so important that I would put it in its own bucket. And they could be considered to be a form of policy, but I don't think that elevates its importance enough in the eyes of decision makers. And education is really important because, gosh, when you're dealing with... Let's say that you want to prevent exfiltration of a trade secret, and you can have all the contracts and policies in the world and you can have access control on these things and you can have locks on your doors and locks on your file cabinets and things like that, but one of the most effective things that you can do is just talk to somebody and say, "Hey, I know you're working on this project. That project's really important and it's really important to me that you keep that information secret. Do you understand? Do you get it? Do you have questions? Is there something that would prevent you from doing that? Or do you have concerns about it?"

(19:33):

And that just kind of one-on-one conversation can do so much where you just tell the person, "Hey, this is a trade secret." That kind of outreach and education is just really valuable for people who, at the end of the day, are trying to launch a rocket and may not be thinking about all these legal issues that are ancillary to that responsibility that, at the end of the day, is going to pay their salary.

Jordan Grotzinger (20:01):

You're the first one in 66 episodes to come up with a potentially fourth bucket. I'm glad you raised this. Education and outreach over and above contracts and policies, what you're saying makes all the sense in the world. And it also begs another question, I think, that I was going to ask, because in your hypothetical, you're coming to someone who's working on a project involving trade secrets and you're reminding that person how important it is to protect that secrecy. To me, that begs the question, how do you feel about inventorying trade secrets? Which I think our panel was about that, wasn't it?

Bridget Smith (20:45):

It was.

Jordan Grotzinger (20:46):

Yeah. And our last episode actually was with another GC who had pretty strong opinions on inventorying. And we went over pros and cons. And one of the pros that we discussed was that I suppose that if you can identify the trade secret, it's easier, for example, to do that outreach you just described because you're talking about something specific. But generally speaking, and I suppose in the context of your education and outreach efforts, what are your thoughts on inventory?

Bridget Smith (21:24):

Yeah, that is such a good question. And because I am such a podcast junkie, so of course I was like, "Ooh, a new podcast," and so while I was walking my dog, I was listening to the last episode, and for a large part of it I was thinking, oh my gosh, I completely disagree with a lot of this. And then at the end when the dialogue really started to crystallize around the word inventory, I just realized that I had a very different picture in my head of what the word inventory meant than what your guest did. And so I think our differences were not actually that stark and it boiled down to a difference in semantics, and that I'm very much aligned with what she was saying. And in that regard, just because for people who didn't listen to the last episode, or maybe I'm putting words in her mouth or she would disagree with my characterization, but I think the issue, the crux of it was that the definition of inventory in that podcast was envisioned as this one document that comprehensively listed and enumerated every trade secret, and that anything that wasn't on that piece of paper was therefore not a trade secret and that that was a bad idea because what if you miss something. Totally 100% aligned. Such a document definitely should not exist.

(22:49):

But I also worried, is that a straw man. Because for a modern tech company, I think we all know that that document is so hypothetical it can't exist. Your company would have to either be extremely small or just utterly non-technical 1970s sale agency where you could even think that-

Jordan Grotzinger (23:10):

Such a great point.

Bridget Smith (23:12):

Yeah, the only unique work you do is the company's Rolodex, and that's it. And of course you could list it out because it's literally just the Rolodex. And that's not even possible for a modern tech company even if you wanted to. The idea, when I was like, "I'm coming from the mindset of I work for a modern tech company, and if I'm inventorying stuff, of course it's not going to be comprehensive. Of course." That's inherent in a modern tech company. I do think it's enormously beneficial to have an internal registry of things that you are pretty confident are trade secrets.

(23:52):

I was recently in Taiwan, and I had the enormous privilege of visiting a semiconductor company while I was there and discussing their trade secret program at their headquarters. And they do have such a registry. And they have cultivated, gosh... And they're very proud of this. This is not a secret. I think they've cultivated north of 130,000 trade secrets in their registry. And again, I am probably putting words in their mouth, but it was just a general impression from our discussion, they didn't seem to have a lot of angst and worry that something would be left off the registry. And that's not because they think the registry is completely infallibly complete. My impression was that they thought that the real, practical, immediate value of having a registry outweighs the hypothetical risk in a litigation, a litigation that might never even happen, that the one thing that was stolen was not in the registry.

(25:02):

And before I move on from that point, they're really able to mine tremendous value from a registry. And that translates to real money for them. They can mine it for promising new inventors and top talent and mine it for trends in latent IP. "Isn't our new AI mining so exciting?" And they have this amazing registry that they're able to dig into and really get value. And that's what IP is all about. That's so exciting.

(25:30):

And so, yeah, I am very much on board. I was very intrigued by that idea of having an internal registry, that you're able to really start to think about once it's down on paper, okay, and now what I can link into it. Can I link into who is working on this project and have a record of that? And where are their data stored?

Jordan Grotzinger (25:53):

And do your outreach and education with that as a resource.

Bridget Smith (25:54):

Yeah, do the outreach and education. What special needs does this important thing have? I totally would encourage anyone to consider if there is value in a registry that would add to your company. It might add value, it might not, but it can be a really interesting way to be able to unlock value that you may be leading on the table and allow you to gain these really powerful insights into what is driving your commercial advantage for you, who knows it, and where is it stored? And in fact, at Relativity, we put so much stake in the value of trade secrets that we have an incentive program and awards that are linked to employees registering their trade secrets.

Jordan Grotzinger (26:46):

Oh, wow.

Bridget Smith (26:48):

Yeah, it's very unique. I don't even think it's unique among the industry. I think it's unique among many IP programs that only incentivize patents. But I put them at equal value with patents. They're very important to our company. And that allows innovative people who can't get patents because their technology is either not patentable or strategically don't want to do that and still recognize them for their valuable contributions to IP through this program, because they are valuable. At the end of the day, trade secrets are synonymous with commercial success, and we want to recognize that.

Jordan Grotzinger (27:24):

It's a lifeblood for sure. That's a very practical view. Another thing your website says is, quote, "Our iterative development approach revolutionizes the process from design to flight, ensuring we can scale to meet customer needs," close quote. First, can you generally describe what iterative development approach means?

Bridget Smith (27:46):

Yeah, absolutely. I would say it's built into our DNA from our roots in additive. I was thinking about that the other day. The whole point of additive and why our founders saw the value in it is that you don't have to lean into a bad design decision early on as you do with traditional manufacturing, like when you have this fixed tooling that makes this one part, when you've invested a lot of money into this fixed tool that makes this one part, you're married to that part because then you have to get rid of the tool that made it. And it can become really hard to do that once you've made a lot of investments.

(28:27):

Leaning into 3D printing, additive manufacturing gave us this ethos that we don't lean into bad design decisions. We design tests, learn, change, design, test, learn, change it. And we've always done that since the earliest days of the company. And if you watch our social media feed of engine tests, eagle-eyed viewers will be able to see the engine change over time. "Hey, that looks like a very different engine," and that's because it is. We're learning and we're iterating and we're not leaning into decisions that don't work and throwing brainpower at getting these dogs to hunt. We'll just be like, "Get a new dog."

(29:13):

That's what we're talking about with this iterative development approach. It's just continuously learning and changing and rejecting solutions that aren't working and making decisions that ensure we can scale and meet customer needs. And I can say that it definitely makes my job a challenge because the pace of work, and innovation and change here is just really not like anything I've ever seen before.

Jordan Grotzinger (29:35):

I would imagine. The website also says, quote, "We design and manufacture cost-effective, high performance, and reusable rockets at an unprecedented pace and scale, setting a new industry standard," close quote. That sure sounds like a valuable process. And of course processes can be trade secrets like anything else that is secret, valuable to you and your competitors because of secrecy and subject to reasonable measures. Do you consider that process itself to be a trade secret, or is that too broad and silly a question?

Bridget Smith (30:13):

There's no such thing as a silly question. I tell that to my direct report all the time. It definitely includes trade secrets. And it's always neat to me to go back and see what our communications and brand teams,

how they characterize things. And then I'll think about, oh, how is that value proposition, how am I supporting that? And when I'm hearing these words, every single one of those is connoting a commercial advantage: cost effective, high performance, reusable, pace and scale of design and design and manufacturing process.

(30:54):

And when I hear those read off, I'm going back and I'm thinking, yeah, that's not just one valuable process. Every single one of those words has a category or multiple categories of trade secrets associated with them. And that's from avionics to vehicle engineering to vehicle hardware to materials and, excuse me, materials and processes, propulsion, software. All of those are feeding into making that possible. Many groups are contributing to that one thing, which is a value proposition, and then relying on trade secrets to realize it. It's just really saying there, "Yeah, there is commercial advantage in this process." It's not just one process, it's many that are all feeding into it.

Jordan Grotzinger (31:42):

Understood. Back to the buckets for a minute. I frequently say that the third bucket... And by the way, I'm going to officially add-

Bridget Smith (31:51):

I love it.

Jordan Grotzinger (31:52):

... innovation and outreach to the list as either a standalone bucket or a sub-bucket under the contracts and policies. But I really love that you pointed that out. I agree with it, and I think it's worth mentioning when we talk about the buckets going forward.

(32:10):

I usually say, when I talk about the original three buckets, that the third one, physical, meaning physical locks, confidential stamps on documents, that kind of thing, is the least important these days due to the electronic data based nature of trade secrets frequently. But of course, your company has a massive amount of hardware and this million square foot facility where all kinds of secret innovations are gestating. And I assume the third bucket for you is quite serious.

Bridget Smith (32:52):

It is. It is serious. And it's so funny to me, sometimes I love... Like I said, this trade secrets occupies such a large part of my day, and I love to educate myself and just make sure that my understanding of reasonable measures is always as current as it could possibly be. And so in addition to listening to podcasts, I read voraciously on the topic. And I think it's really funny that sometimes the attorney literature on this hasn't really evolved with the times, and so they're giving out this 1970s... I think I just said it, the locking file cabinets, even though I haven't actually touched a piece of paper in the last two years.

(33:36):

But yeah, it is very important. One of the first things that you'll notice when you come to our facility is that there's a guard station that's pretty far removed from the actual building itself, everybody entering the building is screened, that we have badge access everywhere. And we definitely follow the advice from government partners who are cluing us in to really evolving insider and external threats. They have such good points on this, and it's very interesting to hear what they have to say.

(34:12):

And one of the things that I would say, I wouldn't necessarily say that the third bucket or physical measures is least important. One of the things that struck me about it is that maybe when I started working at Relativity, I had this thought about what physical security actually means. And I'm just really struck by how savvy and how that role has evolved for our physical security team over time. Our people who work reception, they're not just receptionists, they're also doing security screens, even if you don't see it or realize it. Everybody that is involved with physical security, their role has changed so dramatically as these insider and external threats have changed as well. And so it's not that it's less important, it's just changing. And there is somewhat of a blurring of the lines between what is physical security and what's information security. And yeah, in a building like ours or at a facility like ours, and we have four facilities total, two in Long Beach, one in Stennis, Mississippi, and one at Cape Canaveral that are operating a lot right now, yeah, the physical security is very important, it's just that their role has changed a lot and it changes a lot. They do a lot of work for me in the information realm.

Jordan Grotzinger (35:46):

In so many of these cases, as you know, in injunction hearings for example, courts are discussing usually things like, "Well, there was an NDA. The employment contract had a confidentiality clause. The employee handbook said X. There's password protection," things like that, business like yours, much more robust, reasonable measures for sure. You mentioned patents a little while ago. You guys are a rocket company with very high-tech machines, obviously. In a company like yours, how and when do you choose patent protection versus trade secret protection?

Bridget Smith (36:28):

Yeah, that is such a great question because it's hard to answer. But I do want to kind of flip the script a bit because I don't necessarily see these as mutually exclusive. I think your last guest that said that patents start their lives as trade secrets. And I was like, "Oh, that is such a productive mindset. I love that." Yeah, you can identify at the start of the project that there will be this category of information, and maybe multiple categories that is unique work. That your engineers, they've been around the block, they know what's unique and what they have never really heard of or seen before from their textbooks and things like that. You know that there's going to be vectors of data pointing into that category.

(37:15):

And once you understand all the vectors... And by the way, that is a really great way to use a registry because then you can see, you have visibility into those vectors, those lines of data pointing into your trade secret. And then you can see, okay, what's going to be exposed to the outside world? And where trade secret protection isn't going to be able to retain proprietary rights because the information just inherently can't be kept secret. And by filing that patent application, you're not saying the rest of the category isn't a trade secret, no, now you're just carving out that one piece so that patents and trade secrets can exist in parallel.

(37:52):

And what, again, really nice about the registry is that you can make that clear and have that like, "This I consider to be secret, and we are taking reasonable measures. And this small part of it is patented." And there is no tension between that. And I think that's a lot of concern that people have is they have this very binary view of, "I patent it, and therefore it is not a trade secret." No, it is a patent that augments the myriad trade secrets that surround it. And you can have a patent on technology and reserve rights on things like print parameters and heat treatments and so forth, and never in between shall meet.

(38:31):

And that decision rubric is going to be really different and depending on what the innovation is, that's why I can't say, "Oh, for all cases it's going to be this." At Relativity, I might apply a different analysis depending on whether it's a raw material or a manufacturing process or a manufactured product. But in that regard, I think the things that I think about, except for maybe one, are going to be very aligned with what people think about in all sorts of industries, like how exposed is this process or product to business partners? And how difficult is it to design around? And is there a market differentiator at place? And are we leaning into that as a marketing thing where we could actually say, "Our patented, dah, dah, dah," and that's going to be able to have some value in it? Or can a person reverse engineer this from what we're doing on social media or for marketing materials? And then maybe the one that is unique to us is to what extent does government funding mandate patenting under Bayh-Dole? That's something that maybe a software company might not have to worry about, but something that I think about as well.

Jordan Grotzinger (39:40):

Yeah, and you mentioned reverse engineering and designing around, and of course the importance of that is that if the property, if the asset can be reversed engineered, that reverse engineering does not constitute trade secret misappropriation, which would weigh in favor of patent protection as opposed to locking it down as a trade secret.

Bridget Smith (40:04):

Exactly.

Jordan Grotzinger (40:05):

Thank you for those thoughts. Okay, my last question, usually my favorite part of the podcast, but this one, your job and your insights have been so insightful, and I love this episode already. But the last question for many episodes now is tell us something about yourself, something fun and interesting that has nothing to do with your job or the law. Your job is the fun fact here, but that doesn't count in this podcast. We've had partners of mine who have been former state troopers in New Jersey and people who have worked for stock exchanges. One guy, who shall remain nameless, allegedly broke his arm in an arm wrestling match with a documents vendor. Fun, goofy stuff like that. What do you got?

Bridget Smith (40:59):

That is amazing. Most of my stuff is very small in that for some reason, there's something about my personality that just causes weird things to happen around me that always end in a very memorable way with the same passive characters. And I don't know what it is. I don't like it. I don't want that to happen, but it just does. But what I was thinking, and it does actually touch on law because it's my market differentiator, I would say that I am the only former Erie County Girls Golf Champion that has been cited favorably by the US Supreme Court and has stood behind Leonardo DiCaprio in line at Hudson News at LAX and who roller skates. I'm willing to-

Jordan Grotzinger (41:44):

Wait a minute. Okay, those seem like two totally different things. Am I right? Am I right?

Bridget Smith (41:48):

Yeah. They are a little different, and I'm willing to put money on it. I am the only one in this world that has that. There it is.

Jordan Grotzinger (41:58):

I'm sure you're right. That counted as a fun fact, for sure.

Bridget Smith (42:02):

Great.

Jordan Grotzinger (42:03):

Thank you for that. Okay. Well, this has been a blast. Please do stay on for a minute so I can tell you about that other podcast. And thanks so much for coming on. I'd love to have you back. I love the energy, I love the insights and your descriptions about what you do and what your incredible company does. Thank you very much. And-

Bridget Smith (42:24):

Thank you. This was fun. I appreciate it.

Jordan Grotzinger (42:28):

I'm glad you had fun. Okay, bye everybody. Okay, that's a wrap. Thanks for joining us on this episode of the Trade Secret Law Evolution Podcast. As the law evolves, so will this podcast, so we value your feedback. Let us know how we can be more helpful to you. Send us your questions and comments. You can reach me by email at grotzingerj@gtlaw.com or on LinkedIn. And if you like what you hear, please spread the word and feel free to review us. Also, please subscribe. We're on Apple Podcasts, Stitcher, Spotify, and other platforms. Thanks, everybody. Until next time.