Franchise Savoir-Faire

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Abstract
Savoir-faire is a fundamental concept in European distribution law, including franchising. Judges rely heavily on the application and interplay of the French Commercial Code, Civil Code, codes of deontology, and EU regulations. So, a Civil Law franchise contract requires, inter alia, transmission of savoir-faire (know-how) that is secret, substantial, experimental, and identifiable. American franchise law has little appreciation for savoir-faire, but focuses on contract terms. This difference in perspective poses enormous consequences for international franchisors and their franchisees. Incorporation of savoir-faire into American franchise law would benefit franchisors and franchisees alike.

Key words:
Know-how, goodwill, trade secrets, assistance, termination