A recipe for trade secret licenses

By Karen E. Klein
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Question: I have a unique, healthy pancake recipe. A friend tells me I can't patent it, but I can license it. Is this true? How would I go about this?

Answer: Unless you're using a novel preparation method, your friend probably is correct that your recipe wouldn't be patentable. Typically, a recipe is considered a trade secret.

Even if you could patent your pancake recipe, that route might not be your best bet.

"If you do get a patent on the preparation process, it only protects you for 20 years and then the patented information reverts to the public domain," said Dwight Olson, executive vice president at Taeus International Corp., an intellectual property consulting firm based in Colorado Springs, Colo. "In contrast, a trade secret can theoretically be protected forever as a business asset."

Olson, former president of the Licensing Executives Society, noted that Coca-Cola Co. has protected its lucrative trade secret for 120 years.

In terms of licensing the recipe, your challenge will be finding a buyer. "Somebody will have to fall in love with your pancakes and then be willing to pay money to get the recipe or the technique and use it themselves," Olson said.

Make a list of potential buyers you can think of: manufacturers of pancake mixes, restaurant chains and restaurant suppliers are some likely candidates. Research your targets to determine which ones would be most interested in the unique, healthful aspects of your product.

Before you approach buyers, talk to a licensing professional about what kind of legal or marketing representation you'll need. The Licensing Executives Society (*www.usa-canada.les.org*) has chapters in Los Angeles, Orange and San Diego counties. Attending some of their events can help you get referrals to professionals and learn about the licensing process.

Helping employees save for tomorrow's health

Q: I've heard that health savings accounts are a more affordable way for my company to offer health insurance to our employees. How do HSAs work?

A: Health savings accounts are a relatively new insurance option created by the Medicare bill in 2003. These accounts are designed to help individuals save for future qualified medical and retiree health expenses on a tax-free basis.

HSAs usually are offered by employers in conjunction with high-deductible medical insurance plans. Individual employees and their employers can contribute to the accounts through pretax salary reduction arrangements. Distributions from the accounts are also tax-free if they are used for qualified medical expenses.

Employees own their accounts and can decide whether they want to contribute to them and when to use them for medical expenses. Unspent amounts in the HSA are rolled over from year to year and can be inherited by a beneficiary after the account holder's death.

"Employers can use HSAs to incentivize their employees to pursue healthier lifestyles because they have a financial stake in the game," said Rob Stehlin, a Burbank insurance agent who specializes in HSA plans.

These health insurance arrangements haven't caught on widely, Stehlin said, because agents don't get large commissions for selling them.

"It's very hard to find insurance agents who are well-versed in this option and will sell it, because there isn't a lot of financial incentive," he said.

Stehlin recommended that you talk to an agent who is familiar with HSA plans to determine whether an HSA and high-deductible insurance plan would be in your company's best interests.

Several websites offer search functions for agents who sell HSAs, including *www.hsaed.com* and *www.greatlakeshsa.com*. For more information on the plans and how they work, start with the U.S. Treasury website, *www.ustreas.gov/offices/public-affairs/hsa*.

Got a question about running or starting a small enterprise? E-mail it to karen.e.klein@latimes.com or mail it to In Box, Los Angeles Times, 202 W. 1st St., Los Angeles, CA 90012