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LEGAL NATURE OF A TRADE SECRET AS A FORM OF INTELLECTUAL PROPERTY

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Problem statement. At the current stage of economy and innovative development, ensuring competitiveness and achieving the goals of businesses is greatly connected with the formation of an effective intellectual property management system. In this context, the importance of trade secret as a tool for ensuring competitive advantages of businesses is increasing. The growing importance of trade secrets in ensuring the motivation of companies to innovate, increasing their profitability, pays our attention to the study of some theoretical aspects of this issue.

Objectives. The objectives of the research are to clarify the legal nature of trade secrets, to analyze their substantive characteristics and place in the system of intellectual property objects. The study aims to provide a clearer understanding of trade secret's legal status, highlight its main features, and offer recommendations for improving legal certainty and harmonization in both national and international contexts.

Methods. Among the most fundamental methods, which help greatly to explore the topic of the scientific work are: analysis and synthesis, ascent from abstract to concrete, scientific description, theoretical generalization, induction and deduction, clarifying the substantive characteristics of trade secret and comparing it with other categories.

Results. Trade secrets encompass both technical information, such as information concerning manufacturing processes, pharmaceutical test data, designs and drawings of computer programs, and commercial information, such as distribution methods, lists of suppliers and clients, and advertising strategies. A trade secret may also be made up of a combination of elements, financial information, formulas, recipes and source codes.

In the legislation of Ukraine, a trade secret is considered as an object of intellectual property rights. According to the Civil Code of Ukraine, a trade secret is referred to as confidential information, and must have such characteristics: it is information that is secret; it is unknown and not easily accessible to persons who usually deal with such type of information to which it belongs; it has commercial value; it has been the subject of adequate measures to maintain its secrecy, taken

by the person who legally controls this information [1]. Taking into account the Eurointegration processes of Ukraine, it's important to analyze the requirements that need to be met for the information to be considered 'trade secret' according to the European Union Trade Secrets Directive. In general, to qualify as a trade secret, the information must be:

1. Commercially valuable because it is secret;
2. Be known only to a limited group of persons;
3. Be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements for business partners and employees [2].

Moreover, in the theory, it is noted that the primary form of existence of a trade secret is information that is defined by such characteristics as: the possibility of multiple uses, spatial infinity, unique information, usefulness of such information and ability to be perceived by a particular consumer.

Although the European Economic Area aims to harmonize the definition of trade secrets with international standards, there are still differences in how they are viewed as part of intellectual property. Some experts note that a trade secret is not considered an intellectual property right. This is because its holder does not have the exclusive right to create it and cannot prevent competitors from independently developing and using the same ideas. Instead, trade secrets are legally protected only when confidential information is obtained illegally, such as through espionage, theft, or bribery. Trade secrets are often seen as a supplement or alternative to intellectual property rights. They play a key role in innovation, particularly during the development stages and before formal intellectual property registration, helping to drive technological progress and the creation of new intellectual property rights [3].

Conclusion. Trade secrets are essential for businesses to stay competitive and innovate. It is necessary to have clear regulation in the legal norm "trade secret" with specificity, clarity and comprehensiveness of the legal regulation of this definition, logic in the presentation, absence of contradictions, and minimizing gaps and collisions.

References:

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