

Summary

The Trade Secret and its Protection under Private Law

The theme (topic) of this thesis is The Trade Secret and its Protection under private law. Concretely it examines the trade secret's legal regulation in commercial and civil law. The aim of this thesis is not only to summarize and generalize the existing piece of knowledge relating to the conception of trade secret in the Czech Republic and to compare some of its aspects with corresponding legal regulation in the Federal Republic of Germany but also to provide a complex view of this institute, to capture the essence of some problems and to attempt to suggest some solutions. To achieve this goal both a descriptive and a comparative method were chosen. While elaborating this thesis, not only Czech and German professional literature but also some judicature's samples of both states were drawn. Because of the fact that Czech civil law is going to be recodified in 2014, the work also mentions the future legal regulation. This thesis is systematically divided into two main parts and farther deals with the particular chapters and subchapters

Part One divided into 13 chapters deals with legal regulation of trade Secret in the Czech Republic.

Chapter One describes the history of the trade secret institute and focuses mainly on the period when the trade secret was regulated by the Act No. 111/1927 Coll., Against Unfair Competition.

The following two chapters explore the role of international and European law in respect of the trade secret protection. Regarding international treaties referring to the trade secret protection, the thesis mentions Paris Convention on the Protection of Industrial Property and the Agreement on Trade-Related Aspects of Intellectual Property Rights. As far as European law is concerned, Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights and Commission Regulation (EC) No. 772/2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements were elaborated.

Chapter Four clarifies the meaning of "the trade secret" and precisely examines its individual signs in the way they are currently used in the Czech legal system.

Chapter Five provides comparison of trade secret and matters which are closely related to it (know-how and confidential information by virtue of Section 271 of the Czech Commercial Code).

Chapter Six concentrates on the disposal of the trade secret and its possible transfer either together with a firm, or solely transfer of the trade secret.

The subject of the chapters Seven to Twelve is private law protection of the trade secret in civil and commercial law, both substantive and procedural. It is concentrated on the particular means of legal protection which can be used in the Czech civil law.

Chapter Thirteen examines the above mentioned Czech legislation of the trade secret which is contained in a new civil codex, the Civil Code, No. 89/2012 Coll., which will come into force on January 1, 2014 and which is compared to the valid legal regulation.

Part Two divided into six chapters concentrates on legal regulation of the trade secret in the Federal Republic of Germany.

Chapter Fourteen defines the term of trade secret, its definition and its individual definition signs as understood in German law. In this chapter the definition of trade secret from both legal points of view – the German and the Czech is also compared.

Chapter Fifteen describes the trade secret in selected areas of German legal system and analyzes competition law in particular.

Chapter Sixteen explains the trade secret in German corporate law and includes comparison of Czech and German legal regulation of partner's and shareholder's right to information, which is the subject of trade secret in the respective corporation.

Chapter Seventeen deals further with commercial regulation as it compares Czech and German legal regulation of commercial representative's duty to maintain confidentiality, especially after finishing the contractual relation.

Chapter Eighteen and Nineteen explain the conception of civil claims and procedural remedies of trade secret protection.

In the final and last chapter there are summarized some conclusions, which have resulted from all aspects of this thesis.