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THE USE OF DIFFERENT TRADE SECRET PROTECTION MODALITIES IN ORDER TO ACHIEVE A COMPETITIVE ADVANTAGE IN MODERN BUSINESS CONDITIONS

Summary: *In their paper, the authors consider how the use of different modalities of trade secret protection can help in achieving a competitive advantage in modern business conditions. Today, the competitive advantage of companies usually consists of the possession of intellectual capital, which comprises segments such as knowledge and experience of corporate personnel and intellectual property rights owned by the company. Serious market companies are required to develop procedures in order to be the first to recognize and obtain important and accurate information for the rights that build their intellectual capital right, to use them well and to ensure their storage and protection, whether it is knowledge about innovations, information about business partners or information about customers and consumers and many other data that can contribute to the market success of the company. The modern business environment is characterized by: expansive development of digital technologies; market globalization; the existence of big data (databases called Big data); use of artificial intelligence in research and development, in marketing, in establishing relations with consumers; global labor mobility; the need for permanent s education of employees; developing technologies for fast data transfer; cooperation of the business community with universities and the state to achieve project goals and increase innovation potential. Under such conditions, business entities should act very cautiously and find ways to give employees the possibility of mobility by exercising their right to work on one, but also to preserve the competitive advantage of the company, among other things, with well-chosen methods of protecting business secrets, on the other hand The discussions among the scholars are mainly focussed whether the trade secret is a separate type of intellectual property or it is a sui generis right. Although there is a different approach between the American and European legal theorists regarding the legal nature of the institute of trade secrets, the practical value of trade secret protection is not questioned at all. The authors believe that the raising of international standards for the protection of trade secrets, modern legal regulations that enable efficient and effective protection of trade secrets, represent an essential condition for the intensification of cross-border cooperation in research and development, increase the number of international projects, economic activities related to innovations, more intensive transfer of technology, increasing trade in intellectual property rights and that all this will reduce the fragmentation of the internal market especially in the EU context. In their work, the authors point to the fact that two very important legal regulations for the protection of trade secrets were simultaneously adopted in the world, Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure, adopted on June 18, 2016 and the 2016 The Defend Trade Secrets Act, which was passed by*

the US Congress and which for the first time gave trade secret owners the ability to file civil lawsuits in federal court, offering a number of procedural advantages over state courts. EU member states and Western Balkan countries were supposed to bring into force the transposition of the EU Directive 2016/943 into national legislations by 2018. In this paper, the authors analyze how the EU Directive 2016/943 was transposed into national legislations, and whether and to what extent the results were achieved to raise and harmonize the standards of trade secret protection. Actualization of this issue in the academic setting, offering de lege ferenda solutions to improve the legal framework, to intensify educational activities of the business community and the specialization of subjects involved in the implementation of the protection of business secrets can be a challenge for a good choice of protection modality and for building a good strategy for the protection of business secrets as an important segment of intellectual capital and gaining a competitive advantage.

Key words: *trade secret, innovation, competitive advantage, protected data, intellectual property rights, single internal market,*