



LEGISLATION ON PRODUCTION SECRETS (KNOW-HOW) IN FOREIGN COUNTRIES

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Abstract: The article analyzes the legal protection regime of production secrets (know-how) in foreign countries, particularly focusing on the experiences of the European Union, the United States, Japan, and China. Additionally, issues related to the application of international documents and legislation of Uzbekistan are examined.

Keywords: know-how, production secret, intellectual property, legal protection, TRIPS, European Union, USA, Japan, China, Uzbekistan.

In the modern digital economy, the legal protection of production secrets (know-how) has become one of the most urgent directions. The advancement of technologies, the growth of intellectual knowledge in creating competitive products, and the need of transnational corporations to protect their innovations have brought about the necessity to strengthen the institution of production secrets.

A production secret is information that provides its owner with a commercial advantage and is kept confidential; it often manifests as industrial technologies, work processes, formulas, production algorithms, or client databases. The peculiarity of know-how lies in the fact that, unlike other forms of intellectual property, it is usually not officially registered and is mainly protected through confidentiality [1, p. 112].

Within the European Union, a significant step on this issue was made in 2016. The EU Directive 2016/943 "On the Protection of Trade Secrets" stipulates that know-how is entitled to legal protection only if it meets three main criteria: first, the information must be unknown to the general public; second, it must have commercial value; third, the owner must have taken reasonable measures to keep it secret [2, p. 3]. This Directive obliges EU member states to align their national legislation with these criteria. For example, Germany enacted the "Gesetz zum Schutz von Geschäftsgeheimnissen" (GS GG) in 2019 based on these requirements.

In the USA, protection of production secrets is carried out on two levels — federal and state. The main legal frameworks include the 1996 "Economic





Espionage Act" (EEA) and the 2016 "Defend Trade Secrets Act" (DTSA). The DTSA allows federal courts to protect production secrets, which must meet the following criteria: first, it must be confidential information; second, it must provide economic benefit; third, necessary protective measures must have been taken [3, p. 378]. According to the law, theft, unauthorized use, or disclosure of know-how is a serious offense, with both civil and criminal liability envisaged [3, pp. 381–382].

In Japan, legal protection of production secrets is provided through the "Unfair Competition Prevention Act" (UCPA). This law assigns the following characteristics to production secrets: the information must be secret, have commercial value, and be kept confidential. Amendments in 2003 and 2015 strengthened the law—particularly, criminal liability was enhanced in the Penal Code, the procedure for recovering damages by companies was simplified, and sanctions against those violating confidentiality were increased [3, p. 14; 4, p. 22].

In China, the most important legal document for protecting production secrets is the 2019 updated "Anti-Unfair Competition Law" (AUCL). According to this law, information is recognized as a production secret only if it meets the following conditions: it is unknown to the general public and not easily accessible; it has commercial value; and measures have been taken to keep it secret [5, p. 17]. Sanctions for violations related to know-how in China are strict: courts impose fines, award damages, and issue injunctions to prohibit use. Since 2020, the Chinese government has seriously strengthened the infrastructure in this area, which has increased the effectiveness of practical protection [5, p. 21].

All of this is further consolidated at the international level. Article 39 of the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is specifically dedicated to the protection of production secrets. According to TRIPS, each member state must take effective measures against unauthorized disclosure, acquisition, or use of production secrets [6, p. 512]. This provision serves as an important legal basis for recognizing know-how as an internationally acknowledged form of intellectual property.

In the Republic of Uzbekistan, the legal protection of production secrets is carried out through various normative-legal acts. These include the Law "On Competition" the Law "On Commercial Secrets" the Labor Code, the Civil Code, and other normative acts containing general rules on protecting know-how elements. However, Uzbekistan currently lacks a specific, comprehensive law





regulating production secrets. This situation indicates a lack of a modern approach in this field.

Foreign experience shows that for the effective functioning of the know-how institution, the following key conditions are necessary: first, a legislative framework that clearly defines the criteria for confidentiality of information; second, protective measures and clearly defined liability in case of breach; third, effective judicial and arbitration practices for resolving disputes related to know-how. Considering these factors, the adoption of a dedicated "Law on the Protection of Production Secrets" in Uzbekistan is both important and urgent.

In conclusion, the protection of production secrets is an integral part of the modern intellectual property system and serves as a foundation for economic security, competitiveness, and innovative development. The experiences of the EU, USA, Japan, and China demonstrate different but effective approaches in this area. Uzbekistan should deeply study these experiences and strengthen know-how protection by improving its national legislation.

References:

1. Aresty, J. Know-how protection: legal framework and strategic considerations, Journal of Law and Technology, 2018. – pp. 112–118.
2. Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016. – pp. 3–7.
3. The Defend Trade Secrets Act of 2016, Pub. L. No. 114-153, 130 Stat. 376 (2016). – pp. 378–382.
4. Unfair Competition Prevention Act of Japan, amendments 2003, 2015. – pp. 14, 22.
5. Anti-Unfair Competition Law of the People's Republic of China, 2019 amendments. – pp. 17–21.
6. TRIPS Agreement, Article 39, WTO, 1994. – pp. 512–513.

