



Trade secrets legal protection: From a comparative analysis of us and eu law to a new model of understanding

Despite their economic relevance, the magnitude of the policy concerns raised by their legal protection, and the absence of certainty regarding the way they should be legally apprehended, trade secrets have so far received only little attention by the scientific legal literature. Facing the absence of a robust theoretical corpus, this study investigates the foundations of this legal area by assessing the justifications for legal protection and aims at defining how the legal apprehension of trade secrets should be organised.

The study starts with a comparative analysis of the US and the EU legal frameworks. This analysis demonstrates the link, or rather “parentship”, existing between the two systems of protection. Their core elements indeed first emerged incrementally within US case-law, before influencing, at the international level, the definition provided in Art. 39 TRIPS. This definition constituted the point of departure identified by the European legislator for the drafting of Directive 2016/943 on the protection of trade secrets. Once this choice was made, relying on other key elements of the US normative framework was a natural step. The recognition of this link between the two systems is valuable for the European legal order, in which this new

