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### The summary of the Doctoral Thesis

#### Statutory constructions of content of rights on intangible goods in the age of globalization. Critical analysis based on copyright and patent law

- Under the supervision of prof. dr hab. Elżbieta Traple

The dominant way of regulating rights on intangible goods (hereinafter: RIG) is the exclusive rights model, which is called intellectual property rights. This design gives the right holder the right to exclude other people from unauthorized use of the protected good. The formation of the RIG based on the exclusive (prohibitive) model partly results from the assumptions made about the economics of intangible goods and the related development of doctrine and case law. However, the analysis carried out in this work indicates that the current instrumental knowledge of the economics of intangible goods justifies the search for a new regulation model for them. Shaping these rights on the model of exclusive rights, modeled on the right to property (ownership), is neither the only nor the most justified model of regulation of intangible goods. From this perspective, non-exclusive rights acquire significance.

An attempt at a detailed analysis of the content of the RIG (hereinafter: CRIG) is based on the assumptions of the Civil Law Policy adopted in this work and developed by other authors (hereinafter: CLP). **The first part of the work** (chapters 1 and 2) is devoted to methodological issues underlying the CLP concept adopted in this work. They include, among others: 1) L. Petrażycki's civil law policy; 2) theory of rational legislator J. Wróblewski and S. Wronkowska; 3) the concept of inherently limited subjective rights of A. Marmor and 4) economic analysis of law (in terms of neoclassical and heterodox schools of economic). **The second part of the work** is devoted to the analysis of the development of rights on intangible goods in a historical perspective (chapter 3.) and the presentation of the basic economic justifications for the content of rights on intangible goods (chapter 4.). Both these perspectives are an important element in building the assumptions of the system of rights on intangible goods from the CLP perspective. **Part three of the work** is devoted to the theoretical and normative aspects of CRIG shaping. It outlines the issue of constitutionalization of rights on intangible assets (chapter 5.) and the related principle of the public domain (chapter 6.). Both these perspectives constitute a normative framework for shaping CLP in the area of regulation of intangible goods. On the example of the content of copyright, the theoretical analysis of shaping CRIG was carried out (chapter 7.). **The fourth part of the work** (chapter 8) is devoted to the tendency to expand the use of the so-called liability rules (understood as a non-exclusive rights model) in place of ownership rules (understood as an exclusive rights model) for the purposes of GIS regulations. The existence of this tendency is conditioned by recognition by many

researchers (e.g. E. Ostrom, C.Y. Baldwin, E. von Hippel, Y. Benkler, G. Frosio, L. Lessig, J. Rifkin, M. Ricolfi), that intangible goods arise as part of various organization models of creation processes of works and inventions. People engage in creative and inventive activities guided by various motifs, not just egoistic motifs characteristic of the *homo oeconomicus* model. From the PPC point of view, it is not appropriate to shape the RIG regulation system only on the basis of one of such models (i.e. equivalent exchange model). **In response to this state of affairs, the dissertation proposed a basic set of assumptions for the new CRIG shaping paradigm.** These include the following assumptions:

ASSUMPTION 1. - assumption of the existence of pluralism of organization models for creating works and inventions.

ASSUMPTION 2. - assumption of no discrimination between motivations and interests identified in the framework of various models of organizing the creation of works and inventions.

ASSUMPTION 3. - the assumption that exclusive rights are not a prerequisite for creativity and inventiveness under all decentralized models based on equivalent exchange.

ASSUMPTION 4. - assumption that the advantage cannot be ascertained over the costs of operating the exclusive rights system

ZAŁOŻENIE 5. – założenie potrzeby uwzględniania właściwości emergentnych złożonego systemu regulacji dóbr niematerialnych.

ASSUMPTION 5. - assumption of the need to take into account emergent properties of a complex system of intangible goods regulation.

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