

**Summary of the doctoral dissertation: *"The impact of decisions of the Patent Office of the Republic of Poland on the civil proceedings in industrial property law cases"***

Although the industrial property law – in the subjective meaning – is commonly treated as one of the areas of private law, the competence to resolve industrial property law cases in the Polish legal system has been granted not only to the courts adjudicating in civil proceedings but also to the Polish Patent Office (public administration authority). This dualism is the source of serious problems of practical nature due to the fact that, in many civil proceedings, it is necessary: i) to assess the importance of particular decision of the Patent Office (i.e. administrative decision) in order to decide on a civil case and ii) to determine whether the decision is binding for the court or not. The issue to determine the competence of the court to autonomously resolve the matter transferred to the competence of the Patent Office appear equally often in respect of industrial property law cases, in a situation in which the decision has not been made yet. Therefore, the title issue regarding the impact of decisions of the Patent Office on the course and the outcome of civil proceedings, is of significant practical importance, however it has not been comprehensively elaborated yet.

In the submitted doctoral dissertation, an attempt was made in order to resolve the issue whether decisions of the Polish Patent Office are prejudicial for the court judgments concerning industrial property law cases – and if so, which one of them. The author assumed that the term "prejudiciality in civil proceedings" – which is not a legal term – should be understood as the dependence of the adjudication civil case resolution on the outcome of another proceedings, which occurs when the substantive settlement of a civil case is not possible without a prior resolution of the prejudicially issue (broad sense of prejudiciality). Consequently, it was found that the issue of prejudiciality in civil proceedings involves two aspects: the first one, which concerns the scope of the influence of a ruling or decision that has already been issued by court or a public administration body (i.e. its binding force), and the second aspect, which concerns the scope of court competence to autonomously resolve a prejudicial question, in a situation in which it has not been resolved in the proceedings relevant to the same. Considering the adopted definition of prejudiciality, the problem of binding the court by a decision of the Polish Patent Office and the issue of suspension of the civil proceedings in the industrial property law cases when the adjudication of a case depends on a prior decision of that public administration authority (article 177 paragraph 1 point 3 of the Polish Code of Civil Procedure), was analyzed as a separate question of this dissertation.

The doctoral dissertation consist of four chapters which begin with an introduction and end with the conclusion. The first chapter, which is the introduction to a more detailed consideration explained first of all, which property industrial law cases are settled by the court in civil proceedings and which of them are settled by the Polish Patent Office. This chapter includes also a wide range of the remarks on the legal status of the Polish Patent Office as a public administration authority (according to article 259 of the act on industrial property law, the Polish Patent Office is a central authority of government administration in respect of industrial property matters) and remarks on the legal nature of the proceedings pending before that authority. It was emphasized that there is inadmissibility of the court proceedings in cases referred to jurisdiction of the Patent Office of the Republic of Poland. The proceedings pending before the Polish Patent Office were considered as special administrative proceedings and decisions issued by the same were treated as administrative decisions within the meaning of the Polish Code of Administrative Procedure.

The second chapter of the dissertation presents the issue of prejudiciality of civil proceedings and attempted to arrange opinions expressed on this subject in science. First of all, a distinction was made between cases of "prejudicial dependence" and other cases of relations between administrative and civil proceedings (e.g. cases of so called alternation of ways of proceedings or the influence of pre-jurisdiction proceedings on the admissibility of the court proceedings in civil cases), and the opinion was expressed that the effect of decisions of the Polish Patent Office on civil proceedings does not take any of the forms of described relations which are not the "prejudicial dependence". Then, the definition of prejudiciality in civil proceedings was presented and theoretical methods of resolving prejudicial issues was discussed and it was noted that cases in which the court is deprived of any competence to resolve the prejudicial issue are the examples of limitations of the jurisdictional independence of the civil court. Then, by taking position in the dispute on how to qualify prejudicial issues on the basis of the court judgment in respect of a civil case, it was assumed that those decisions and rulings should be treated as elements of the factual – not a legal – basis of the judgment.

The third chapter includes the presentation of issues related to the binding force of the decision of the Polish Patent Office for a civil court. In this chapter, first of all, it was indicated that "binding the court by a decision of the Polish Patent Office" is not synonymous with the binding by factual findings that were made by a public administration authority, but it means that the court is obligated to take into account the legal situation which was created or determined by issuing the decision. Referring to the problem of binding the court by the

declarative decision of the Polish Patent Office, it was adopted that the court is binding not only by those decisions, which were issued in cases of administrative law relationships, but also by those ones which were taken in civil matters. Furthermore, in this chapter more detailed issues were analyzed: the scope of binding the court by concrete decisions of the Polish Patent Office (in particular, the scope of binding by a decision which grants an exclusive right, in a situation in which the defendant refers to this decision in response to a third person's legal claim) and also the influence of decision defectiveness of the Polish Patent Office on the scope of binding the court by this decision.

The fourth chapter of the dissertation contains considerations about suspension of the civil proceedings pursuant to article 177 paragraph 1 point 3 of the Polish Code of Civil Procedure, due to dependence of the adjudication on the previous decision of the Polish Patent Office. In this chapter, it was indicated that, although article 177 paragraph 1 point 3 of the Polish Code of Civil Procedure provides that the suspension of the proceedings due to dependence of the decision of the public administration authority is optional, nevertheless in cases of prejudicial dependence of the court decision on the decision of the Polish Patent Office, the resolution of a prejudicial question in a separate proceedings should be a rule. Considering potential frequency of cases of prejudicial dependence on the decision made by the Polish Patent Office and the necessity to suspend the civil proceedings connected therewith, it was concluded that the present model of pursuing claims in industrial property law cases does not fulfill the effectiveness criteria of the civil proceedings to the optimal extent. At the end of this chapter, postulates *de lege ferenda* were presented and it was indicated that the best method to increase the level of effectiveness of the civil proceedings in industrial property law cases is to provide the court with more competences to independently resolve the issues which are currently considered as prejudicial questions most commonly (without depriving the competence of the Polish Patent Office or with simultaneous exclusion of certain matters from the jurisdiction of the Patent Office or possibly by adopting regulations based on solutions used in the system of EU trademarks and industrial designs, i.e. by depriving the competence of the Polish Patent Office to settle certain cases only if the defendant lodges a relevant counter-claim in the industrial property law case).