Appendix 2

Summary of Achievements
presenting the description of accomplishments and achievements in scientific work

dr Monika Rejdak

Maria Curie-Skłodowska University in Lublin, Poland
Faculty of Law and Administration
Department of Civil Procedure and International Commercial Law

Lublin 2019

1. **Name**: Monika Rejdak

2. **Diplomas and academic degrees – with the name, place and year of their award and the title of the doctoral dissertation.**

- diploma of judge examination (2003) – judicial training at the Regional Court of Warsaw (2000-2003).

- *doctor of laws – Maria Curie-Skłodowska University* in Lublin, Faculty of Law and Administration (14.11.2007). Subject of the doctoral dissertation: "Proceeding in cases for deeming the provisions of a contract template inadmissible" (the dissertation written under the supervision of Prof. dr hab. Andrzej Jakubecki (reviewers Prof. dr hab. Mieczysław Sawczuk and Prof. dr hab. Karol Weitz)

- Master's degree – *Maria Curie - Skłodowska University* in Lublin, Faculty of Law and Administration (1999). Subject of the master's thesis*:* "Consumer protection in material and procedural civil law". The studies completed with a mark "very good", with distinction awarded by the Rector of UMCS ("blue diploma").

3. **Information on previous employment in academic entities**

February 2008 – present:	Assistant Professor at the Department of Civil Procedure and International Commercial Law at the Faculty of Law and Administration of the *Maria Curie-Skłodowska University* in Lublin
2000 – February 2008	a doctoral student, and since 2003 an assistant at the Department of Civil Procedure and International Commercial Law at the Faculty of Law and Administration of the *Maria Curie-Skłodowska* University in Lublin

4. **Specification of achievements* pursuant to Article 16(2) of the Act of 14 March 2003 on academic degrees and academic title and degrees and title in arts (Journal of Laws of 2016, item 882, as amended by Journal of Laws of 2016, item 1311):**

4.1. Title of the scientific achievement:

scientific monograph entitled: ***"The securing of evidence in the matters of intellectual property rights infringement".***

4.2. Author, publication title, year of issue, name of the publisher, editorial reviewers

M. Rejdak, *The securing of evidence in the matters of intellectual property rights infringement"* publ. *C. H. Beck*, Warsaw 2019, (ISBN: 978-83-8158-512-5).

4.3. Description of the scientific aim of the above monograph, results achieved and the possibility of their use

I. The monograph written by me, entitled: "*The securing of evidence in the matters of intellectual property rights infringement"* is the result of my research in various areas of scientific activity, including expert and teaching activity. Its **scientific aim** is to identify and explain the essence of the institution of the securing of evidence, dedicated to civil cases for infringement of intellectual property rights. This is because for many years legal scholars have proposed the introduction of to these civil proceedings the solutions which could be a remedy for occurring obstacles in obtaining by entitled parties information on infringements of rights, which information is essential not only for winning the trial, but also the very decision about

seeking legal protection. The normative response to these needs, relating to parties entitled to intellectual property rights, is *Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.* The European legislature has referred with this legal act to the fact that in cases of infringement of intellectual property rights, a person entitled (the party injured by the infringement of intellectual property rights) is not fully aware of the infringement to his right (or of the extent of infringements) or his knowledge is incomplete. All in all, it does not coincide with the real state of affairs (the existing and actual extent of infringements of his right)[1]. Hence the person entitled can not prepare a statement of claim, the content of which would reflect this real state of affairs. Nor can he prove his (presumed) claims true before the court, because he also lacks the evidence needed in civil proceedings to prove the truth of these facts.

I pointed out in my work, that, in general, we can refer to the phenomenon already noticed in the Polish legal scholarly opinion, referred to as "*distributed damage"*[2], , and in this respect - in a certain aspect - I see the similarity between the existing obstacles concerning cases of intellectual property rights infringement and the causes that made legislatures around the world to introduce a group-initiated procedure where protection against "distributed damage" related to a group claim can be sought (this issue will be discussed below, because group-initiated proceedings constitute another area of my research, contributing to my scientific achievement). This is so because in view of the phenomenon referred to as "distributed damage", the legislatures introduce appropriate procedural regulations aimed at enabling identification and determination of the extent of the damage suffered by the entitled person, which would be impossible in this respect without the participation of the court. On the other hand, the difference between cases concerning infringements of intellectual property rights and

[1] See A. Tischner, Odpowiedzialność majątkowa za naruszenia prawa do znaku towarowego, Warszawa 2008, pp. 264-265.

[2] See on the notion of distributed interests: E. Łętowska, Prawo umów konsumenckich, Warszawa 2002, s. 11; and on distributed interests of a group in the group-initiated proceedings : see R. Kulski, Ochrona interesów zbiorowych w postępowaniu cywilnym, Warszawa 2017, p. 42 et seq. ;M. Rejdak, Współczesne przemiany w procesie cywilnym w odniesieniu do ochrony interesów konsumentów (indywidualnych, zbiorowych oraz grupowych), in: A. Jakubecki, J. A. Strzępka (eds.), Jus et Remedium. Księga jubileuszowa Profesora Mieczysława Sawczuka, Warszawa 2010, p. 457et seq., idem, Postępowanie w sprawach o uznanie postanowień wzorca umowy za niedozwolone. Komentarz, Warszawa 2009, p. 134 et seq.; idem; Powództwo o uznanie postanowień wzorca umowy za niedozwolone i zakazanie ich wykorzystywania, Kwartalnik Prawa Prywatnego 2009, vol. 1, s. 135-167; idem, Jednorodzajowe roszczenia w postępowaniu grupowym, Przegląd Prawa Handlowego 2010, No. 8, p. 22; idem, Procesowa ochrona grupowych interesów konsumentów przed niedozwolonymi (nieuczciwymi) postanowieniami wzorców umów, in: M. Jagielska, E. Rott – Pietrzyk, A. Wiewiórkowska – Domagalska (eds.), Kierunki rozwoju europejskiego prawa prywatnego. Wpływ europejskiego prawa konsumenckiego na prawo krajowe, M. Rejdak, P. Pietkiewicz, Ustawa o dochodzeniu roszczeń w postępowaniu grupowym. Komentarz, Warszawa 2011.

the cases for which group proceedings are dedicated, in the discussed aspect, is based, among others, the fact that in cases concerning infringements of intellectual property rights, their "distributed character" refers to damage suffered by one entitled person who is not able to identify its extent, which is a consequence of the intangible nature of the asset concerned. For group-initiated proceedings, however, the distributed character of damage lies in the fact that it was incurred by many people at the time of the decision to initiate civil proceedings, the damage incurred by the group is not known (group damage), it may also be that the damage cannot be accurately identified, therefore, its full extent cannot be determined. Both of these situations are connected by the fact that there is an objective problem here with becoming aware of the damage and its extent.

For the matters addressed by the monograph in question, dedicated to the securing of evidence, the entitled person cannot independently, without the help of the court, identify the extent of the damage incurred by him. In such a situation, the only measure left is to use (if they exist) protective measures of "evidence extraction" nature towards information about facts - the application of which can be ordered by the court, if, of course, the legislature had created a normative basis. Another solution is to issue a decision awarding a specific monetary amount, which does not result from precise fact finding, determining the amount of damage incurred. However, here one also needs to know the information about the infringement of the right. I would like to point out that *expressis verbis* the phenomenon of *distributed damage* in cases concerning infringement of intellectual property rights is referred to in the enforcement directive itself. Note that when regulating the right to information (Article 8 of the Directive), the directive clearly refers to the collection of knowledge from various sources, thus indicating different places of occurrence of damage ("distributed character"). This provision refers to information on the origin and distribution networks of the goods or services which infringe an intellectual property right by "the infringer and/or any other person" referred to in Article 8(1)(a) - (d)[3].

[3] On the claim for information and its implementation in Polish law, see : R. Skubisz, Roszczenie o udzielenie informacji na podstawie art. 80 ust. 1 pkt 2 i pkt 3 ustawy o prawie autorskim i prawach pokrewnych. Ocena w świetle art. 45 Konstytucji i art. 47 Karty Praw Podstawowych, in: Księga jubileuszowa Prof. dr hab. M. Czajkowskiej – Dąbrowskiej, Warszawa 2019; tenże, Roszczenie o udzielenie informacji w prawie własności przemysłowej, pp. 2535-2569; A. Jakubecki, in: System Prawa Prywatnego, vol. 14C, 2017, pp. 686-688. See also on the topic of acquiring factual information in civil proceedings before the adoption of the enforcement directive: R. Skubisz, Prawo z rejestracji znaku towarowego i jego ochrona, Lublin 1998, p. 174 .

The above-mentioned objective difficulties in collecting information about infringements of the entitled person's rights, in the situation where there are no regulation to remedy these difficulties, entail a phenomenon of procedural injustice. Therefore, to eliminate this condition, legal measures dedicated to these civil matters should be in force, which will enable the entitled person to learn about infringement of his or her rights[4]. That is why I assumed and demonstrated in my piece that civil procedure model is not appropriate for effective claiming intellectual property rights, as this model is sufficient to claim protection of private rights which do not entail the problem of objective obstacles to identifying the facts of infringement of subjective rights, where there is no objective difficulties in identifying and determining the extent of infringements of the rights of the entitled person.

As regards the field of civil procedure, I stated in the dissertation that the direct cause of the difficulties in pursuing the protection of intellectual property rights is the nature of the subject of evidence in these proceedings, i.e. features of the factual state identified in these matters and the type of necessary evidentiary measures directly related to this subject, characteristic of violations of these rights. The most needed evidentiary measures can be described as *corpus delicti* (including documents). As argued in scholarly opinion, it is the subject of evidence-taking and related kind of evidence necessary to determine this very subject, which may imply the necessity of introducing privileges for certain entities in evidence-taking proceedings, and this is what we are dealing with in the case of the institution discussed in the monograph.

I would also like to note that indeed, from the point of view of evidence-taking proceedings, solutions that introduce certain evidentiary facilities to certain persons can be regarded as their privilege in evidence-taking proceedings, but from a wider perspective, i.e. from the point of view of pursuing the protection of infringed rights under civil procedure, the privilege observed in the regulation regarding evidence-taking proceedings, it turns out that it is only a guarantee of introducing into the civil procedure the equal (fair) rules for the implementation of the burden of proof within the meaning of Article 6 of the Civil Code, that is procedural justice (equal status of the parties). Only in these conditions can the principle of adversary procedure be developed, which is characteristic of civil proceedings, and sometimes

[4] Polish legal scholars before the enforcement directive became adopted in view of the absence of institutions allowing for acquiring information, had looked for a means to resolve this problem by pointing to the possibility to apply Article 322 of the Code of Civil Procedure, see : M. Sawczuk, O naturze prawnej, p. 41 et seq.; A. Jakubecki, Postępowanie zabezpieczające, 1999, p. 279 et seq.; idem, Dochodzenie roszczeń z zakresu z zakresu z zakresu prawa własności przemysłowej, Studia prawa prywatnego, p. 314; and A. Tischner, Odpowiedzialność majątkowa, 2008, p. 121.

even demonstrates the essence of the process. Only the normative overcoming of objectively existing obstacles that do not allow those entitled to learn about the facts of infringement of their rights, to point to them in civil proceedings , and to prove them true, enabling the exercise of one's burden of proof under Article 6 of the Civil Code, and thus allows the party to obtain protection for its subjective right. It is worth noting that in other similar situations, when objective obstacles existed, the legislature essentially solved them by introducing certain presumptions, that is, by invoking favourable solutions for certain entities, due to the right pursued, just for the purposes of evidence taking. In a sense, also with regard to the institution of securing evidence, we are dealing with the creation of a specific presumption by a court, which arises as a result of the enforcement of a court ruling on the securing of evidence - which is discussed below.

In other civil matters, essentially arising as a result of a breach of contract, where evidence exists in the form of documents available to both parties, or in those civil matters that relate to ownership of tangible items, these obstacles to access to evidence are non-existent, except for obstacles regarding the matter for which group-initiated proceedings have been instituted. Therefore, maintaining this, still unfair, state of affairs would mean allowing normative diversification of chances for effective protection of one's subjective rights. Therefore, as I have already mentioned, it is not a question of introducing special privileges for those entitled to intellectual property rights seeking protection before court against infringements, but for the creation for those persons appropriate conditions in which entities of other subjective rights already operate by seeking their protection in civil proceedings.

I have assumed and demonstrated in my dissertation , that the origins of the institution of the securing of evidence (i.e. the above mentioned difficulties in fact finding) determines the findings as to its very essence, and directly refers to the subject of evidence[5], i.e. concerns the characteristics of the actual state of violation of these rights, and evidentiary measures related to this factual state, which allow these findings to be made.

I was encouraged to address the subject of the securing of evidence in cases of infringement of intellectual property rights by the fact, noticed by me, that the institution of the securing of evidence dedicated to these matters was not fully identified by Polish scholars of law, and that the national legislature misread it by introducing this regulation in 2007 to our

[5] See Prawo dowodowe, ed. R. Kmiecik, Warszawa 2008, p. 96. It is the subject of evidence that determines the choice and manner of use of evidentiary measures. Also, the subject of evidence requires the application of diverse legal evidence guarantees to subjects to the proceedings.

legal order, i.e. by implementing the European directive. It should be emphasized that the basic normative source of the legal institution researched by me is Article 7 of the Enforcement Directive which, *expressis verbis*, provides for "measures to preserve evidence". Learning about this institution means defining its essence, i.e. determining the object of its protection and the manners whereby this protection is granted. The second **goal of the research is the practical use of it.** It was not only about examining whether the Polish institution of the securing of evidence intended for cases of infringement of intellectual property rights corresponds substantively to the European model of measures to preserve evidence, defined in Article 7 of the Directive in conjunction with the preamble of Regulation No. 1215/2012, but the main goal of this dissertation is a positive solution of this problem, i.e. establishing the content of the institution of the securing of evidence so as to make it - firstly - correspond to the model set out in Article 7 of the Directive, but most of all - secondly, constitute an effective protection measure for infringed intellectual property rights, bearing in mind that the Directive binds the Member States in terms of result and allows for solutions that are appropriate for a given legal culture.

This aspect of the research is already applied, as it is manifested by my work as an expert in the team appointed in the Ministry of Justice *for the drafting of the provisions of the Act on separate proceedings in intellectual property matters and the establishment of intellectual property courts,* whose work was completed with the the preparation of the draft Act of 21.3.2019 on the amendment of the Act - Code of Civil Procedure and some other acts (bill no. UD 497). During the work on the draft Act, I use the conclusions from my research on the institution of securing evidence, I have developed the concept of the institution of the securing of evidence (as well as the means of obtaining evidence from the defendant), I also prepared the grounds for this bill, concerning these institutions, which forms part of the explanatory note to the bill.

Also, during the study on the institution of the securing of evidence, I noticed that procedural measures, including, in particular, measures of temporary legal protection, including preventive measures, are nowadays of exceptional importance for effective protection of subjective rights, and the source of this idea are tendencies already taking place in European law[6]. Naturally, one may ask the question here what is the unique nature of the procedural means that are supposed to be the means of enforcing intellectual property rights, since – as

[6] The first monograph on the institution of securing the claims in proceedings in matters of protection of intellectual property rights is written by A. Jakubecki : Postępowanie w sprawach z zakresu prawa własności intelektualnej, Kraków 1999.

scholars of civil law widely accept – the civil procedure serves just to protect subjective rights and these rights are granted the protection. However, in the case of the procedural measure subject to my research, this is about much more than the mere application of norms of substantive law in civil proceedings. The measures for enforcing intellectual property rights covered by the enforcement directive, including the securing of the evidence, show us that civil proceedings can become somewhat independent on the protective function of substantive law[7]. In these situations, the same civil procedure establishes protection for specific needs, in this case the need to acquire information about the facts of violations of the right, and thus, in a sense, they create legal protection. On the other hand, until now, it is essentially the norms of substantive law, or more strictly their application in civil proceedings, which eventually could have led to protection of legally justified needs. That is why I assumed in the study that an autonomous protective function of civil proceedings is applied in relation to the examined institution[8]. This is so, because the securing of the evidence as a procedural means is an appropriate remedy for certain legitimate needs of civil law entities, which needs have not been included in the norms of substantive law and emerge with an infringement of this right.

Therefore, the socio-economic needs are not always recognized or perceived by norms of substantive law, neither is it always appropriate to cover these needs with the regulation of substantive law, since it may be that the norms of substantive law cannot provide effective and proper protection for these needs. This issue had already been noticed by M. Waligórski, who referred to situations in which there was a direct link between procedural law and socio-economic needs[9], and which – as noted by R. Longchampes de Berier – in the situation of covering them with legal protection gain the status legal interests[10]. By introducing the discussed institution to the civil procedure, the legislature recognizes that the needs of those entitled to intellectual property rights deserve legal protection and give the status of legal interests to these needs to acquire knowledge of legal infringements. That is why I found out that upon the adoption of the directive, we no longer deal with the existence of legitimate

[7] See J. Helios, Miejsce prawa europejskiego proceduralnego we wspólnotowym porządku prawnym, w: red. J. Kaczor, Teoria prawa europejskiego, Wrocław 2005, pp. 71-94; W. Lang, Prawo procesowe a prawo materialne. Wzajemne relacje, in: Prawo w XXI wieku. Księga pamiątkowa 50- lecia Instytutu Nauk Prawnych Polskiej Akademii Nauk, ed. W. Czapliński, Warszawa 2006, pp. 427-437.
[8] On the autonomisation of the protective function of civil procedure, see: M. Walasik, Analogia w prawie procesowym cywilnym, Warszawa 2013, p. 139, see also W. Siedlecki, in: J. Jodłowski, W. Siedlecki, Postępowanie cywilne. Część ogólna, Warszawa 1958, p. 30.
[9] M. Waligórski, Polskie prawo procesowe cywilne, pp. 4-5.
[10] R. Longchampes de Berier, Studyja nad osobą, p. 98.

(economic) needs to obtain knowledge about violations of law, but these needs gained the status of legally protected interests that arise upon the breach of subjective right[11].

I also noticed that another argument in favour of recognizing that in cases concerning infringement of intellectual property rights the emancipation of procedural means is observed is the fact that the scope of information provided by the court about the facts of right infringements, already determines per se the scope of protection of intellectual property rights. However, the lack of specific factual information or restriction thereof is tantamount to the lack of protection of the property right. It is, after all, the scope of obtained information which decides on the amount of the awarded payment due to the infringement.

This shows that the court in civil proceedings, deciding on the consent to obtain information about infringements of the right of the entitled person, at this point in time decides about the scope of legal protection granted to the entitled person, including the amount of the payment awarded. One can see the anticipatory protection for the right itself. In the light of the above, let us note that the content of the institution of securing evidence, i.e. the form of the conditions for its admissibility, as well as the existing grounds for resolving the conflict of values that arises between the protection of intellectual property and other fundamental rights[12]

[11] On legal interest, see : R. Longchampes de Berier, Studyja nad osobą prawniczą, p. 98; M. Waligórski, Polskie prawo, p. 34; H. Trammer, Następcza bezprzedmiotowość, p. 13 (przypis); J. Klimkowicz, Interwencja uboczna według kodeksu postępowania cywilnego, Warszawa 1972, p. 10 et seq.; W. Broniewicz, Interes prawny przy powództwie o zasądzenie, ZNUŁ 1964, no. 37, p. 836 et seq.; T. Rowiński, Interes prawny w procesie cywilnym i w postępowaniu nieprocesowym, Warszawa 1971, p. 9 et seq; F. Zedler, Interes prawny jako podstawa zabezpieczenia, p. 327 et seq; K. Weitz, Charakter interesu prawnego, p. 664 et seq.; Ł. Błaszczak, Znaczenie interesu prawnego w poszukiwaniu ochrony prawnej w procesie cywilnym na przykładzie poszczególnych rodzajów powództw, in: Ius est a Iustitia appellatum, p. 35 et seq.; A. Jarocha, Interes prawny jako podstawa zabezpieczenia roszczeń w postępowaniu cywilnym, in: Proces cywilny. Nauka – Kodyfikacja – Praktyka. Księga jubileuszowa dedykowana Profesorowi Feliksowi Zedlerowi, eds. P. Grzegorczyk, K. Knoppek, M. Walasik, Warszawa 2012, p. 437 et seq.

[12] See the literature on similar situations, although directly related to the collection of evidence outside formal civil proceedings, i.e. concerning the issue of illegally acquired evidence, where equivalent values may also be violated. This raises the question of the possibility of using such evidence in civil proceedings. Let us note that the institution of the securing of evidence referred to in Article 7 of the Directive may in a sense solve the issue of seeking evidence, as before acquiring this right the entitled person obtains the court's consent to access to evidence, where the grounds for obtaining such evidence are examined. During illegal acquisition of evidence, also arises the question of infringement of other equally important elements, such as personal rights. However, when allowing for the securing of evidence, the court should consider whether, despite the fulfilment of the conditions for the legitimacy of the securing of evidence, i.e. having a legal interest in the securing of evidence and the link between the evidence to be secured and the proceedings as to the substance, i.e. the action, there will be an infringement of other fundamental rights; for illegally obtained evidence, see: K. Knoppek, Wstęp do badań nad problemem dowodów uzyskanych sprzecznie z prawem w procesie cywilnym, in: Problem dowodów uzyskanych sprzecznie z prawem w procesie cywilnym, ed. K. Knoppek, Poznań 2018; K. Knoppek, in: System prawa procesowego, ed. T. Wiśniewski, p. 108 et seq.; F. Zedler, Dopuszczalność dowodu z taśmy magnetofonowej w postępowaniu cywilnym, in: Księga pamiątkowa ku czci Profesora J. Jodłowskiego, p. 540 et seq.; E. Wengerek, korzystanie w postępowaniu cywilnym ze środków dowodowych uzyskanych sprzecznie z prawem, PiP 1977, vol. 2, pp. 26-32; A. Laskowska, Dowody w postępowaniu cywilnym uzyskane w sposób sprzeczny z prawem, PiP 2003, vol. 12, p. 89; M. Krakowiak, Potajemne nagranie na taśmę jako dowód w postępowaniu cywilnym, Monitor prawniczy

that can not be infringed in the proceedings for the protection of intellectual property **affects not only the obtaining of court's consent to secure evidence, but *de facto* also the granting of protection to an intellectual property (subjective) right.** I also assumed that the admissibility of this legal measure not only depends on the fulfilment of the conditions, i.e. demonstration of having a legal interest in obtaining the securing, and thus the existing relationship between the securing of evidence with the claim sought in substantive proceedings, but also the conflict between seeking the protection of intellectual property and other fundamental rights deserving equal protection must be resolved.

II. The assumptions made before this work, and specified in the introductory notes and then repeated in the first chapter, **proved viable during analysis, and may therefore constitute conclusions from my work.** I assumed, and then demonstrated that, contrary to the literal and normative name given to the institution discussed in this work by the Polish legislature as *the securing of evidence (zabezpieczenie dowodów)*[13], it is in fact a preventive measure, or more strictly a procedural remedy that directly protects intellectual property rights (and not procedural rights to provide evidence). I decided that this is the content of the examined institution - contrary to what could seem based prima facie on wording of Article 7 of the directive[14], or consistently under current national provisions. For the Polish law, the institution researched by me was implemented with the Act of 9.05.2007 on the amendment to the Act on

2005, no. 24, pp. 1250-1253; B. Karolczyk, Dopuszczalność "dowodów uzyskanych z naruszeniem prawa" w postępowaniu cywilnym, Przegląd Sądowy 2012, no. 4, p. 88 et seq.; K. Gajda – Roszczyniarska, Klika uwag o dopuszczalności dowodów nielegalnych na tle prawnoporównawczym w polskim postępowaniu cywilnym, in: Księga jubileuszowa Sędziego Jacka Gudowskiego, p. 70-100; ta, Ograniczenia dopuszczalności dowodów nielegalnych w postępowaniu cywilnym – granica czy fundament dążenia do prawdy w postępowaniu cywilnym, PPC 2016, no. 3, p. 399 et seq.; Ł. Błaszczak, in: Dowody i postępowanie dowodowe w sprawach cywilnych. Komentarz praktyczny z orzecznictwem. Wzory czynności sądowych i pism procesowych, ed. Ł. Błaszczak, K. Markiewicz, Warszawa 2015; D. Korszeń, Zakres zakazu przeprowadzania w postępowaniu cywilnym dowodów nielegalnych (bezprawnych), monitor prawniczy 2013, no. 1, p. 1 et seq.; A. Skorupka, Dopuszczalność dowodu sprzecznego z prawem w sądowym postępowaniu cywilnym, Warszawa 2018.

[13] It is worth reminding that the term "the securing of evidence" is a Polish term, while Article 7 of the enforcement directive bears the title "Measures for preserving evidence". However, since 2012, i.e. at the time of adoption of Regulation No 1215/2012, that institution was given the normative European name of "provisional, including protective, measure". In the draft act UD 497, the term " the securing of evidence" has been introduced, which is to be synonymous with the term "seizure of evidence" and is therefore intended to point to the characteristic feature of the institution, which relates to the stage of implementation of a decision on securing evidentiary measures.

[14] Advocate General J. Kokkot has already pointed out, in his opinion in Case Tedesco of 18.7.2007, C – 175/06, paragraph 84.

copyright and related rights and certain laws[15], which entered into force on 20.06.2007[16]. The Act introduced changes in: the Act on Copyright and Related Rights (Article 80paragraph 1), in the Industrial property law act (in particular in Article 286[1])[17], in in the Act on the protection of databases (Article 11a), the Act on the legal protection of plant varieties (Article 36b (1)) and the Civil Procedure Code. Direct reflections on the protection provided by the evidence securing measure were carried out in Chapter III of the monograph. On the other hand, the basic normative argument in favour of the adopted findings results from the content of the preamble of the *Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters*, where the European legislature *expressis verbis* referred to Article 7 of the enforcement directive, indicating this measure as a provisional, including protective, measure intended for the protection of claims (not evidence).

I have also demonstrated in my monograph that, consistently, since the measure studied is supposed to be a means for protection of subjective rights, there must be a way in which it grants this protection. I found that the mere recognition that we are dealing with a means to protect intellectual property rights is not enough to really know the nature of the institution under examination. I therefore have taken and justified the position that the measure concerned provides temporary protection for intellectual property rights in such a way that as a result of enforcement of the court's decision to secure evidence, i.e. as a result of seizure of evidence (which is the most characteristic feature of this measure), the court temporarily determines if the facts obtained and learned during the "taking of evidence" are true, and thus temporarily determines the liability of the alleged violator for the facts of violations.

This court's ruling, i.e. provisional factual findings and provisional determination of the liability of the (still) alleged offender, concludes the first stage of civil proceedings for seeking the protection of infringed rights. Later on, the stage directly aimed at applying the substantive law to the established facts may begin, unless the defendant starts disproving these provisional findings of the court. Thus, using the institution of the securing of evidence, conditions for procedural fairness are created for this second phase of the proceedings, because at that time

15 Ustawa z 9.5.2007 r. o zmianie ustawy o prawie autorskim i prawach pokrewnych oraz niektórych innych ustaw,Dz.U. z 2007 r. Nr 99, poz. 662.

[16]On the subject of assessment of the draft amendment of the Polish regulations implementing the enforcement directive, see: S. Sołtysiński, A. Nowicka, Uwagi o projekcie ustawy wdrażającej dyrektywę 2004/48/WE w sprawie egzekwowania praw własności intelektualnej, KPP 2006, vol. 4, pp. 1063-1081.
[17]Dz.U. of 2003 r., no. 119, item 1117 as amended.

not only the alleged infringer has knowledge of violations of the entitled person, but also the entitled person has access to the information needed. Only then, after the creation of this kind of presumption, favourable for the entitled person and upon the seizure of evidence, adversarial civil proceedings can begin, where it can be assumed that there is procedural justice.

I have also assumed that apart from the meaning of the term of *securing* as a synonym of legal protection, which is always granted to rights, and not to objects[18] (or, in this case, evidence), by using the term "the securing of evidence" with regard the institution discussed in this work we can treat this concept as a synonym of the term of *seizure of evidence* (seizure of evidentiary measures). It is reasonable to characterise this institution by its most characteristic feature, i.e. the fact that evidentiary measures are seized. Hence, one can also refer to this institution in view of this characteristic stage and then – as I have already noted – deem the concept of the securing of evidence as tantamount to "seizure of evidence". At the same time, in order to distinguish the institution discussed in the monograph from the classic Polish regulation on the securing of evidence (governed by Articles 310 - 315 of the Code of Civil Procedure), I proposed using the term "securing the evidentiary measures". It is then evident that it is not about the securing as referred to in Articles 310 - 315 of the Code of Civil Procedure, but for an institution dedicated to the protection of intellectual property rights, whose characteristic activity is the "seizure of evidence", which can be replaced by the synonymous term "securing the evidentiary means" [19].

I noted in my monograph that the procedural measure at issue, as referred to in Article 7 of the Directive, eventually crossed the demarcation line dividing the traditional securing of evidence (referred to in the Polish regulation of Articles 310 - 315 of the Code of Civil Procedure) from the measures for the securing of claims, and became a measure granting provisional protection to the very subjective rights. However, it does not constitute, as I assumed in the monograph, the securing of claims referred to in the proceedings on the securing of claims, and this institution was doctrinally introduced into Polish law with regard to intellectual property rights in 1999 by a monograph by A. Jakubecki, entitled: Zabezpieczenie roszczeń w sprawach z zakresu prawa własności intelektualnej.

I also have stated in the monograph that due to the strong link between an evidence securing measure and the protection of the subjective right (this measure is supposed to serve

[18] Z. Radwański, A. Olejniczak, Prawo cywilne - część ogólna, Warszawa 2011, p. 112 et seq.
[19] This is regulated so in the bill no. UD 497.

to), I have decided that, de facto, the examination proceedings as to the merits of the case begins with the request to secure evidence[20].

Another equally important conclusion arising from the monograph concerning evidence-securing measures in general, is not only the statement that the Polish institution of the securing of evidence referred to in Articles 310 - 315 of the Code of Civil Procedure, as basically boiling down to documenting the activity of evidence taking in the future (activity "in futurum"), cannot constitute an effective means of protection of intellectual property rights, but also does not meet the European requirements for evidence-securing (excluding here those concerning rights), where it is stressed that the essence of these measures is the existing normative requirement to initiate proceedings regarding the action after prior securing the evidence that can only be carried out for specific civil proceedings and hence there must exist procedural unity between this first act of securing evidence and the formal bringing the suit. It is considered that the proceedings regarding the suit have already been initiated when the request for the securing of evidence has been submitted. The Polish regulation referred to in Articles 310 - 315 of the Code of Civil Procedure does not meet these requirements, and according to these criteria can act as evidence *in futurum* (normatively and not directly related to the proceeding as to the merits) at most.

Description of other scientific achievements

All the main topics I addressed in my scientific work to date after obtaining the doctoral degree boil down to the statement that they concern the transformations of civil procedure law that are taking place today, particularly under the influence of European law or European thought. On the other hand, in such delineated area of issues, I focused on the search for legal solutions that include procedural institutions (procedural measures), which may constitute effective procedural tools for the protection of legitimate socio-economic needs. I have noticed in my research work that many times the effective legal protection takes place only when the remedy for justified needs (deserving protection) are procedural means. However, covering these justified needs with the protection of procedural law transforms them into protected legal interests, and this does not happen on the basis of norms of substantive law, but directly on the

[20]In the opinion of the Advocate General in the context of the perception of legal action, he pointed out that the concept of action on the merits should be understood broadly as meaning any action to obtain a final ruling on the rights and obligations.

basis of procedural means (norms of civil procedure law). This leads to a general approach that in the examined area of issues, my scientific work was focused on learning, through legal analysis, about specific procedural institutions and the autonomous function of civil procedure.

In view of the above, I would like to stress that the main topics of my scientific work to date concern the following:

A) **procedural protection of consumer interests in civil proceedings.**
B) **seeking legal protection in group-initiated proceedings.**
C) **evidence and evidence-taking proceedings, including those related to infringement of intellectual property rights.**

Having obtained the doctoral degree, **one of the main directions of my scientific research** focused on the procedural protection of consumer interests, in particular the protection of collective consumer interests. I have devoted to this issue my scientific activity, as well as my expert and teaching activity, including popularization. As far as scientific publications are concerned, I would like to point out that I have published an author's commentary on the issue of protection of collective consumer interests in civil law and civil proceedings: *Postępowanie w sprawach o uznanie postanowień wzorca umowy za niedozwolone (wyd. [Proceedings in cases concerning the declaration of provisions of a model agreement as prohibited] (publ. C. H. Beck, Warszawa 2008*, p. 202), as well as articles on this matter and chapters in the following monographs: M. Rejdak, Powództwo o uznanie postanowień wzorca umowy za niedozwolone i o zakazanie ich wykorzystywania [Action for the declaration of provisions of a model agreement as prohibited and for prohibition of their use], *Kwartalnik Prawa Prywatnego* 2009, vol. 1; M. Rejdak, Uwagi na tle wyroku Sądu Najwyższego z 23.10.2013 r., IV CSK 142/13 [Remarks on the judgement of the Supreme Court of 23.10.2013, IV CSK 142/13], *Monitor Prawa Bankowego* 2014, no. 9; M. Rejdak, "O potrzebie istnienia odrębnej regulacji procesowej dotyczącej dochodzeniaroszczeń konsumenckich (uwagi na tle wyroku z dnia 14 czerwca 2012 r. Trybunału Sprawiedliwości w sprawie C-618/10 *BancoEspañol de Crĕdito* SA przeciwko*Joaquinowi Calderŏnowi Caminie* [On the need for a separate procedural regulation regarding claiming consumer redress (comments against the judgment of the Court of Justice of 14 June 2012 in case C-618/10 Banco Español de Crĕdito SA v. Joaquin Calderñna Camina] in: "*Postępowanie rozpoznawcze w przyszłym Kodeksie postępowania cywilnego", (Zjazd Katedr Postępowania Cywilnego Kocierz, 29.09.2013 r.),* ["Examination proceeding in the future Code of Civil Procedure", (Convention of Departments of Civil Procedure, Kocierz,

29.09.2013] ed.: K. Markiewicz, A. Torbus,Warszawa 2014;M. Rejdak, Współczesne przemiany w procesie cywilnym w odniesieniu do ochrony interesów konsumentów (indywidualnych, zbiorowych oraz grupowych), [Current transformations in civil procedure with regard to protection of consumer interests (group, collective and individual] in: *Jus et remedium,* Księga Jubileuszowa Profesora Mieczysława Sawczuka, ed. A. Jakubecki, J. Strzępka, Warszawa 2010. I also delivered papers on this subject at scientific conferences and seminars: M. Rejdak, "Środki procesowe jako skuteczna ochrona interesów konsumentów" ["Procedural measures as effective protection of consumer interests"], delivered at the Nationwide Scientific Conference on: "Ochrona praw konsumenta – stan obecny i perspektywy" ["Protection of consumer rights - current state of affairs and prospects] (organized by the Higher School of Economics and Innovation in Lublin), as well as a presentation at a scientific meeting of the Lublin branch of the Polish Academy of Sciences, on the following topic: "Ochrona konsumenta, wczoraj, dziś i jutro" ["Consumer protection, yesterday, today and tomorrow"]. Moreover, I presented the issue of the procedural protection of consumer interests in open lectures ("Open Doors" event of the Faculty of Law and Administration of the Maria Curie-Skłodowska University, 2011).

I would like to stress that - in particular - both the commentary on *"Proceedings in cases concerning the declaration of provisions of a model contract as prohibited"* and the article published in Kwartalnik Prawa Prywatnego on "*Actions for declaring provisions of a model contract as prohibited and for prohibition of their use*" were at that time the first in-depth analysis in the Polish science of procedural law on the procedural protection of collective consumer interests against prohibited provisions of the model contracts and consumer contracts[21]. At that time it was a completely new issue and regulation for Polish law, and its direct normative source was the Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts[22], implemented into Polish law in 2000. First of all, in these papers I tried

[21] I would like to note that, from the point of view of substantive law, there are, of course, monographs presenting the issue of model contracts, namely: E. Łętowska, A. Świstak, in: Nieuczciwe klauzule w prawie umów konsumenckich, eds. E. Łętowska, K. Osajda, Warszawa 2004.
Concerning consumer protection issues, when a undertook to discuss these issues, there were only studies that addressed certain specific issues: F. Zedler, Procedural issues relating to unfair contractual terms, in: The evaluation of the new Polish legislation in the matter of consumer protection from the European perspective, ed. M. Kępiński, Poznań 2001;K. Gajda, Rozwiązywanie indywidualnych sporów konsumenckich, in: Czterdziestolecie kodeksu postępowania cywilnego. Zjazd Katedr Postępowania Cywilnego w Zakopanem (7.-9.2005), Kraków 2006; A. Kadzik, Postępowanie w sprawach o uznnaie postanowień wzorca umowy za niedzowolone (abstrakcyjna kontrola wzorców umownych), Radca Prawny 2003, Nr 4; .K. Weitz, Postępowanie w sprawach o uznanie postanowień wzorca umowy za niedozwolone, in: System Prawa handlowego. Postępowanie sądowe w sprawach gospodarczych, vol. 7, ed. T. Wiśniewski, Warszawa 2007, pp. 173-218
[22] OJ L 95 of 21.4.1993.

to present my own concept of the legal nature of an action for considering provisions of a model contract as prohibited and for prohibition of their use, as well as the full course of proceedings in these cases, discussing its distinctive elements, which are to ensure protection of the collective interest of consumers, threatened by the use of prohibited provisions of model contracts in trade. Therefore, I also assumed and justified that, contrary to the literal wording of the provisions (then in force: Article 479^{36} – Article 479^{45} of the Code of Civil Procedure), a suit brought in these cases contains not only a demand to consider the provisions of the model contract as prohibited, but first of all a demand to obtain a court ruling prohibiting their use in legal transactions. However, the mere consideration of the provisions of the model agreement as prohibited is a condition for the fundamental decision, i.e. a prohibition to use these provisions in legal transactions. I assumed then that this action (unlike all other actions) aims at the establishment by the court of a legal obligation in the form of a prohibition on using the provisions of the standard contract terms in legal transactions[23]. Moreover, in these publications I have learned and explained the existing differences in the matter of legal protection of the institution of prohibited provisions of model contracts, i.e. collective consumer interest, which is different from the matter of legal protection granted on the basis of the institution of prohibited provisions of consumer contracts. This statement was important for distinguishing the proceedings in cases concerning the consideration of provisions of a model contract as prohibited from civil proceedings concerning a specific consumer contract concluded on the basis of the model contract. In particular, clarification of these issues was essential for a correct understanding of the extended validity of a judgement declaring the provisions of the model contract as prohibited and prohibiting the use of these provisions in legal transactions, its impact on the protection of individual claims of individual consumers and the perception of the legal force of the register of prohibited provisions of model contracts. This last point is also the subject of another publication by me, namely the following commentary: "Klauzula abuzywna w umowie kredytu hipotecznego. Glosa do wyroku Sądu Najwyższego z 23.10.2013 r. (IV CSK 142/13)" [Abusive clause in mortgage credit agreement. A commentary on the judgement of the Supreme Court of 23.10.2013 (IV CSK 142/13)] which was published in Monitor Prawa Bankowego (2914, no. 9).

At that time and with regard to the above mentioned issues, I was appointed by Professor Zbigniew Radwanski, Chairman of the Civil Law Codification Commission, to the problem team of the Civil Law Codification Commission for consumer protection issues in the Civil

[23] M. Rejdak, Powództwo o uznanie postanowień wzorca umowy za niedozwolone i zakazanie ich wykorzystywania, Kwartalnik Prawa Prywatnego 2009, vol. 1, p. 165.

Code. My work in this team concerned specifically the development, as part of joint work of the team, of a concept for the Civil Code provisions concerning the issues of model contracts, prohibited provisions of model contracts and consumer contracts, as well as the relationship between these issues and procedural issues, i.e. the seeking of legal protection by consumers in civil proceedings as a result of the inclusion of prohibited provisions in contracts and consumer model contracts. This time of my activity in the problem team within the Civil Law Codification Commission resulted in the following publication: "*Procesowa ochrona grupowych interesów konsumentów przed niedozwolonymi (nieuczciwymi) postanowieniami wzorców umów*" [Procedural protection of group interests of consumers against prohibited (unfair) terms of model contracts], in: Kierunki rozwoju europejskiego prawa prywatnego. Wpływ europejskiego prawa konsumenckiego na prawo krajowe, [Directions of development of European private law. The impact of the European consumer law on national laws], (eds.) M. Jagielska, E. Rott – Pietrzyk, A. Wiewiórkowska – Domagalska, Warszawa 2012). Moreover, this activity resulted in my participation in the international conference held on 23-24.9.2010 at the Faculty of Law and Administration of the Silesian University, concerning the following subject: "Kierunki rozwoju europejskiego prawa prywatnego. Wpływ europejskiego prawa konsumenckiego na prawo krajowe" ["Directions for the development of European private law. Thei mpact of European consumer law on national law" (organised by the Department of Civil and International Private Law of the Faculty of Law and Administration of the Silesian University, Ministry of Justice and the Facultas Iuridica Foundation).

At this point, I would also like to mention that I got interested in the subject of model contracts earlier, when I published in *Ruch Prawniczy, Ekonomiczny i Społeczny* an article entitled: "Definicja terminu *wzorzec umowy konsumenckiej*" ["Definition of the term consumer model contract"], which was reviewed by *Professor Zbigniew Radwański*. On the other hand, I published in "Rejent" a publication concerning: "Definicja konsumenta w rozumieniu kodeksu cywilnego (art. 221 k.c.)" [Definition of consumer in the meaning of the Civil Code (Article 221 of the Civil Code), *Rejent* 2006, No. 1. "I would also like to point out that in the monograph: Wykładnia prawa. Odrębności w wybranych gałęziach prawa, [Legal interpretation. Distinctive elements in selected branches of law] ed. L. Leszczyński, Warszawa 2006, I published a chapter on: "*Próba ekonomicznej interpretacji definicji konsument – art. 22^1 k.c.*). [An attempt at economic interpretation of the definition of a consumer - Article 221^1 of the Code of Civil Procedure], ed. L. Leszczyński, Warszawa 2006. At the same time, I also participated in a project for the *Office of Competition and Consumer Protection*, which resulted in the publication: M. Rejdak, Ochrona konsumentów przed niedozwolonymi postanowieniami

wzorca umowy w trybie postępowania cywilnego (art. 479^{36} i nast. K.p.c.) oraz w trybie postępowania administracyjnego (art. 23a ustawy z dnia 15 grudnia 2000 r. o ochronie konkurencji i konsumentów) [Protection of consumers against unauthorized provisions of the model contract under civil procedure (Article 47936 et seq. of the Code of Civil Procedure) and under administrative procedure (Article 23a of the Act of 15 December 2000 on Competition and Consumer Protection) included in a collective work entitled: "Ochrona konsumenta. Wybrane przepisy, komentarze, wzory dokumentów [Consumer protection. Selected provisions, comments, model documents], eds. L. Ustaborowicz – Jakimowicz, Warszawa 2004. As part of this undertaking, I also prepared a lecture on: Ochrona konsumentów przed niedozwolonym postanowieniami wzorców i umów konsumenckich, wygłoszony dla rzeczników ochrony konsumenta [Consumer protection against illegal provisions of consumer models and contracts, delivered to consumer protection ombudsmen (Warsaw 2004, Ministry of Economy). Moreover, at that time I took part in an international conference organised by the Ministry of Justice concerning the "Integration of consumer laws within the framework of national civil codes". (26-27 January 2006, Warsaw).

To sum up the above mentioned area of my scientific interests, I would like to stress that it concerned identification, systematising and indicating the author's approach to the issues of procedural protection of consumer interests, in particular the protection of collective interests of consumers. The choice of these research topics stemmed both from my interest in learning about institutions that are located between substantive law and procedural law, as well as from the impact of European law on the content of civil procedure, and from the fact that at that time, as has been mentioned above, the issue of procedural protection of collective consumer interests was not comprehensively discussed, but implied an avalanche of theoretical problems I had to face.

The second main area of my scientific work is the seek of legal protection in group proceedings. On 17 December 2009, the Act on seeking claims in group-initiated proceedings was adopted in Poland, which entered into force on 19 July 2010, and as early as in 2011 I published a monographic commentary on the issue of group proceedings (co-authored by P. Pietkiewicz; I estimate my contribution at 80%). I began my scientific interest in the issue of group proceedings in 2011, with the publication of the aforementioned commentary, in which I could face this new procedural institution and present my own position on the regulation, and then, after 7 years of the proceedings in force, I had an intellectual pleasure to carry out, at the request of the Institute of Justice, an assessment of the group proceedings already conducted

under the Act, in the context of whether the proceedings met the expectations laid on it in 2010. Therefore, I conducted in 2017 a study of court cases heard according this procedure. The result of the research is - initially available only in electronic form - the following publication: M. Rejdak, "Funkcjonowanie w praktyce sądowej ustawy z dnia 17 grudnia 2009 r. o dochodzeniu roszczeń w postępowaniu grupowym" ["Functioning of the Act of 17 December 2009 on Seeking Claims in Group Proceedings in judicial practice"]. (2017), (available on the official website of the Institute of Justice: https://www.iws.org.pl/raporty, accessed on 13.4.2019), and then these studies and the analysis of civil cases, which were conducted on the basis of group proceedings, took the form of a monograph: M. Rejdak, "Obowiązywanie w polskim porządku prawnym postępowania grupowego (ocena i perspektywa zmian) [Application of group proceedings in the Polish legal system (evaluation and perspective of changes], Warszawa 2019 r. (Wydawnictwo *Instytutu Wymiaru Sprawiedliwości, Warszawa 2019*).

This area of research is also addressed in my article: "Jednorodzajowe roszczenia w postępowaniu grupowym" ["Single-type claims in group proceedings"], published in Przegląd Prawa Handlowego (2010, No. 8). I would like to note that the issue of group proceedings was also presented at the scientific conferences and seminars: a presentation at the conference: "group actions as a new risk to the functioning of public companies" (Warsaw Stock Exchange, 2011) and at the conference "Prawo wobec wyzwań współczesności" ["Law towards the challenges of the present day"] (Kielce, 15.09.2011). I would like to note that I also participated in an international conference on group proceedings organised by the Codification Committee for Civil Law at the Ministry of Justice (2007), during which the possibility of introducing such a procedure in Poland was debated for the first time. I was also acquainted with the operation of this procedure in other legal systems.

I would like to stress that, already my first publications on group proceedings, and confirmed later in the year 2017, as a result of the analysis of court cases proceeded under group proceedings, made me to formulate the opinion that this is a procedure which should be dedicated to a group claim which cannot be regarded as an accumulation or sum of individual claims, which has long been covered by the institution of joint participation in the dispute. In my opinion, the group proceeding is intended for seeking a redress for "distributed damage". I also presented this approach to group proceedings in the publication that constituted a chapter of the monograph: M. Rejdak, Współczesne przemiany w procesie cywilnym w odniesieniu do ochrony interesów konsumentów (indywidualnych, zbiorowych oraz grupowych), [Current transformations in civil procedure with regard to protection of consumer interests (group,

collective and individual] in: *Jus et remedium,* Księga Jubileuszowa Profesora Mieczysława Sawczuka, ed. A. Jakubecki, J. Strzępka, Warszawa 2010. I would like to mention that I am currently a consultant in the works on the new Act on group proceedings currently under preparation by the Ministry of Investment and Development.

The third area of research I have undertaken concerns the issues of evidence and evidentiary proceedings, including those relating to evidentiary issues related to specific cases concerning infringement of intellectual property rights or exceptional issues regarding the perception of general clauses in evidentiary proceedings. In view of the above I focused mainly on learning about the function of evidence in civil proceedings, also looking at them from the perspective of the regulation of EU law, and selected systems of the national law. This area of issues is primarily addressed by the study on the institution of obtaining evidence from the defendant: M. Rejdak, Wydobycie dowodów od pozwanego w postępowaniu cywilnym o naruszenie praw własności przemysłowej (w świetle art. 6 dyrektywy 2004/48/WE i prawa polskiego) [Obtaining evidence from the defendant in civil proceedings for infringement of industrial property rights (in the light of Article 6 of Directive 2004/48/EC and the Polish law), published in "Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z prawa własności intelektualnej" (2012, vol. and the article: M. Rejdak, Poznawanie faktów oraz gromadzenie dowodów przez powoda w polskim postępowaniu cywilnym ze szczególnym uwzględnieniem spraw z zakresu praw własności intelektualnej [Fact-finding and collecting evidence by the plaintiff in Polish civil procedure, with particular emphasis on cases in the field of intellectual property rights], published in *Polski Proces Cywilny (* (2013, no. 2). In addition, I presented these issues at a seminar and scientific conferences. I would like to point out that at the scientific meeting of the Department of Intellectual Property Law at the Faculty of Law and Administration of the Jagiellonian University (January 2013) I presented a paper on the "Institution of obtaining evidence from the defendant under Article 6 of Directive 2004/48/EC on the enforcement of intellectual property rights and under Polish law". In addition, I discussed the issues of evidence and evidentiary proceedings in the Commentary to the Code of Civil Procedure, originally edited by K. Piasecki, A. Marciniak (2016), and edited in the second edition by A. Marciniak (edition 2019). In this publication, I focus on the fundamental regulation regarding evidence, i.e. Article 227 – Article 234 of the Code of Civil Procedure, as well as on the documentary evidence (Article 243^1 – Article 257 of the Code of Civil Procedure). In addition, this area is addressed by my publication (chapter in a monograph): M. Rejdak, Dokument elektroniczny jako dowód w postępowaniu cywilnym [Electronic document

as evidence in civil proceedings], in: Postępowanie i prawo cywilne w dobie informatyzacji [Civil procedure and civil law in the era of computerization], Warszawa 2016, ed. A. Marciniak. Moreover, in the area of evidentiary proceedings, I dealt with the issue of general clauses in evidentiary proceedings in civil procedure. I presented this issue in a chapter of the monograph: M. Rejdak, Klauzule generalne w postępowaniu cywilnym [General clauses in civil proceedings], *Honeste procedere*. Księga Jubileuszowa dedykowana Profesorowi Kazimierzowi Lubińskiemu [Honeste procedere. A Jubilee Book in honour of Professor Kazimierz Lubiński], eds. A. Laskowska - Hulisz, J. May, M. Mrówczyński, Warszawa 2018. I also discussed these issues in the paper "Zabezpieczenia dowodów w sprawach o naruszenia praw własności przemysłowej" ["The securing of evidence in cases of infringement of industrial property rights"], delivered at the scientific conference: "Znaki towarowe i ich ochrona", ["Trademarks and their protection"], organised by the Department of EU Law of UMCS in Lublin and the Scientific Association Pro Scientia Iuridica (Lublin, 8-9.6.2018). Moreover, at the conference on "Civil procedure and civil law in the era of computerization" (Faculty of Law of the University of Białystok), I delivered a paper "Dowód z dokumentu elektronicznego w postępowaniu cywilnym" [Evidence from electronic document in civil procedure]. At the conference: "Nie daj się złapać w sieć" ["Do not let get caught up in the web"] (organized by the Faculty of Law and Administration of the UMCS in Lublin), I delivered a paper on the topic: "Postępowania dowodowego w sprawach o naruszenia dóbr osobistych w Internecie" ["Evidentiary proceedings in cases of violations of personal rights on the Internet"] (at the same time, to popularize these issues, I gave an interview in the public television in Lublin, discussing the issues of evidence in case of violations of personal rights on the Internet, in particular the institution of the securing of evidence). Another issue recognised as worth interest is the problem of general clauses in substantive law and the determination of their status in evidentiary proceedings. This issue is an important part of the question of separating the facts from the law in civil proceedings. I have presented this issue at the scientific conference: "Generalnych klauzul odsyłających w porządku prawnym- ujęcie systemowo-porównawcze" ["General clauses in the legal order - the system comparative approach" (14 May 2015, Faculty of Law and Administration of UMCS in Lublin). I also participated on 10 October 2016 in the Supreme Court at the first Seminar of Young Civil Procedure Specialists (organised by the Scientific Society for Civil Civil Procedure Specialists) "Problemy ewolucji prawa postępowania cywilnego" ["Problems of the evolution of the Law of Civil Procedure"] and one of its sessions referred to evidentiary proceedings.

To sum up, in this latter scientific activity, I focus on searching for new functions for the Polish evidentiary proceedings, looking at the functions they may perform in civil procedure in general, and in particular taking into account the perspective of effectiveness of civil proceedings. I would like to point out that, since certain civil cases are characterised by a specific object of evidence, in my opinion this also implies the introduction of this function of civil proceedings, which would also involve obtaining new information about facts by the entitled person. An example is cases concerning infringements of intellectual property rights, where, without the participation of the court and without regulations enabling the obtaining of evidence from the adversary, entitled persons cannot obtain information about the infringements and the scope of infringements of their rights, as well as demonstrate that their assumptions about the infringements are true. In this area of issues, I also carried out my expert activity, which was expressed in my work in the team appointed by the Minister of Justice (2018) to develop a separate civil procedure for matters concerning the protection of intellectual property rights. I conclude in the publication on general clauses in civil proceedings that it is worth considering for the future, with respect to cases based on a legal norm containing a general clause, that it is reasonable to distinguish shape-forming claims and constitutive decisions in civil proceedings.

Summary of scientific achievements

To sum up my previous achievements and the scientific problems addressed therein, I would like to stress that these were the subject of not only scientific papers, including my own books, but also my other activities, i.e. expert activities, which included research on civil cases (court case files), which were carried out on the basis of group proceedings that I examined, as well as my conference and didactic activities, and also my popularisation activities. At this point I would like to add that I was twice (2015, 2016) appointed to the Jury of the Competition of the Scientific Society of Civil Procedure Specialists and the journal "Polski Proces Cywilny" for the Award of "Polski Proces Cywilny" for the best master's thesis in the field of civil procedure, and as part of this activity I also prepared reviews of papers submitted to the competition.

I think that the scientific and research achievements presented by me may prove useful both for the development of theory and practice of application of law.

Monika Rejdak