

Tomasz Marek

Doctoral thesis –

summary

„The responsibility of the allegedly entitled person in regard to the intellectual property rights for the unjustified demand to cease and desist”

The subject of the doctoral thesis is the legal analysis of the possibility to hold liable for the damages a person who issues an unjustified demand for cease and desist. The purpose of the doctoral dissertation is to give the answers to questions concerning the possibility and conditions of the legal liability for damages of a person, who demands to cease the activity, that infringes his/her intellectual property right, in particular a patent or a right of protection for a trademark when afterwards it occurs, that he/she had not possesses such right (e.g. when the right is invalidated) or that he/she had possessed such right in regard to a narrower range than it had been described in the demand.

The doctoral thesis begins with an introduction which describes in a detailed way the research problem which constitutes the subject of the analysis in the subsequent parts of the dissertation. In the first chapter, author discusses the concept of a demand to cease and desist above all by indicating its purpose, content and form. The final of the chapter concerns the analysis of the method of reaction of the addressee of the demand. This research aims at providing a role model of the due diligence of addressee.

The second chapter of the doctoral thesis concerns the research in regard to the possibility to hold the allegedly entitled person liable for the damages on the ground of tort provisions. The first part of the analysis consists of the comparative legal considerations which present the method of the legal regulations of the described activity in two foreign legal systems, namely in the United Kingdom and in Germany. Subsequently, the subject of the detailed research is the capability of the art. 415 of Civil Code to constitute a legal base for the responsibility of the author of the demand to cease and desist in the Polish legal system. The author of dissertation discusses consecutively the conditions of the mentioned claim for damages, in particular concentrating on the attempt to build a due diligence role model of the allegedly entitled person.

Succeeding part of the dissertation concentrates on the analysis of the demand to cease and desist from the perspective of the Suppression of Unfair Competition Act. The research was performed separately in reference to the liability of the author of the demand to cease and desist to the primal trespasser when he is the addressee of the demand and the liability to the

primal trespasser in the situation, when the demand had been sent to the secondary trespasser. The considerations are supplemented with the reference to the relevant provisions of the German Act Against Unfair Competition.

In the fourth chapter of the doctoral thesis, the subject of the research are relations between particular legal grounds and damages claims which can be performed by the addressee of the demand to cease and desist. Moreover, the chapter includes also analysis regarding the limitation periods of damages claims.

The last chapter of the dissertation consists of the summary of the researches conducted by the author. Furthermore, the summary includes also the necessity and the potential direction of the legislative amendments regarding the activity which is the subject of the doctoral thesis.

Keywords: demand to cease and desist, damages claim, grounds of liability, intellectual property law.

12.06.2017z *James Neely*