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Summary of the doctoral dissertation „**Fair use in Polish and European copyright law. On the need for a legal transplant**”, written under the direction of Professor Ryszard Markiewicz.

The present study has three main research objectives: (1) identifies the positive and negative consequences of the closed catalogue of exceptions & limitations (E&L) adopted in Polish and European Union copyright law; (2) proves the need of introducing changes to the Polish and European Union copyright law, and (3) identifies the optimum method to improve the level of certainty and flexibility of E&L regulations; in particular the dissertation provides assessment as to whether a transplant of a fair use clause would be the right tool hereto.

The following issues were analysed for the purpose of carrying out the aforementioned research objectives.

Firstly, the study explains the concept of a "legal transplant" and shows that the borrowings can take different forms, depending on the goal set by the recipient country. Additionally, the study lists the factors on which the success of a legal transplant depends. The dissertation also proves that the subject of regulation should determine the form of regulation and demonstrates that the area of E&L requires an introduction of a general clause. The next chapter contains a historical analysis that aims at presenting the evolution of American and continental copyright law in order to prove that copyright in common law and civil law systems derive from similar philosophical assumptions, what is an important factor in assessing the possibility of carrying out a legal transplant.

The following chapters analyse the Polish and European Union regulations on fair use in terms of their legal certainty and flexibility. The analysis shows that the issue of the interpretation of E&L in Poland and the EU creates significant problems and causes doctrinal disputes. The controversy concerns both the nature of E&L as well as the permissible methods of their interpretation. The lack of consensus as to the permissible methods of interpretation makes it impossible to determine the actual scope of E&L, what significantly reduces the level of legal certainty. It has been proven, that Polish and European Union E&L regulation lacks not only legal certainty, but also the flexibility of law, as there is no open clause that would allow for innovative forms of use and the consideration of social norms and all circumstances relevant for particular cases. The present study shows that the low level of legal certainty and flexibility is further decreased by the three-step test. It has also been proven that these deficiencies cannot be fully complemented by relying on conventional constitutional rights and the provisions of the constitution. This part of dissertation is closed with an analysis of the results of public consultations

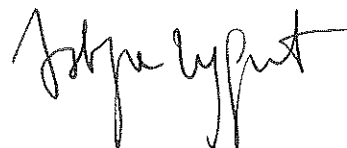
on E&L, which is carried out in order to illustrate the conflict of interests between the right holders and users and to identify its "inflammatory points", which is essential for a complete debate on changes to the currently binding law.

The following chapters of the dissertation are devoted to the American regulation of E&A, with particular emphasis on the fair use clause, and to the practical differences in applying the fair use clause and the closed catalogue of regulations. The study evaluates the US fair use clause in terms of its flexibility, certainty, compliance with the three-step test, and the creation of costs. The analysis of foreign legal instruments entails information on the countries that have already transplanted the fair use clause and those who conducted or are currently conducting research or legislative work in this area.

The present study ends with an analysis of the methods that could be used in order to increase the level of flexibility and certainty of Polish and European Union copyright law. This analysis includes an evaluation of the possibility of carrying out a legal transplant of a fair use clause.

Kraków, 22.10.2017

Justyna Zygmunt

A handwritten signature in black ink, appearing to read 'Justyna Zygmunt', written in a cursive style.