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Summary of the doctoral dissertation entitled: Exceptions and limitations of copyright for persons with disabilities in the context of human rights and the development of assistive technologies.

Summary in English

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1. This work examines the possibilities of access for persons with disabilities to works protected by copyright in the context of human rights and intellectual property law. The hearing indicates that insufficient access to materials protected by copyright is discriminatory and negatively affects the implementation of the rights of persons with disabilities, arising from both the Convention on the Rights of Persons with Disabilities and other acts of international law. The work also analyzes the impact of international and national copyright law on the needs of people with disabilities, in particular the needs of people with visual disabilities. Analyzing international copyright law, the dissertation assessed the Marrakesh Treaty on Facilitating Access to Published Literary Works for Persons with Visual and Print Disabilities.

2. Due to the above, the subject of the doctoral dissertation is the analysis of the exceptions and limitations of the international copyright system and their impact on those specified in Art. 30 of the Convention on the Rights of Persons with Disabilities, the right of persons with disabilities to equal access to cultural materials in accessible formats, including in the context of the development of assistive technologies. The dissertation points out that by establishing the right to participate in cultural life (Article 30 of the CRPD) on an equal basis with others, the international community has emphasized that all persons with disabilities should have access to cultural materials in all formats available to them, and intellectual property rights should not constitute an unjustified or discriminatory barrier (Article 30(3) of the CRPD). Currently, thanks to technical development, this assumption is possible to achieve thanks to the solutions offered by new technological tools. However, the dissertation indicates that although changes in the paradigm of perceiving the rights of persons with disabilities were of key

importance in introducing exceptions and limitations in copyright law for them, they were too slow and conservative, as a result of which copyright law still constitutes a significant barrier in access to the works protected by it. With regard to the needs of persons with disabilities, the exceptions and limitations established in the Marrakesh Treaty focus only on literary works and the illustrations contained in them. This situation not only does not allow for the full implementation of the right of access to all cultural materials referred to in the Convention on the Rights of Persons with Disabilities, but also limits the potential of using new technologies, limiting them only to those that transform text into other available formats. Moreover, the scope of the Treaty covers only a narrow group of beneficiaries, indicating only persons with visual and printing disabilities, excluding persons with cognitive disabilities, deaf, mute, intellectual disabilities and combinations of the above-mentioned disabilities. The Marrakech exception has thus become doubly discriminatory because, due to its limitations, it not only denies visually impaired people access to works of visual art, but also excludes all other groups of disabled people from its beneficiaries.

The above restrictions result in a situation in which potential creators of copies of a work in an accessible format (initially other than literary) are not sufficiently protected by international legal standards. In the event of a possible dispute with copyright holders, the creator of a copy in an accessible format can still rely only on protection resulting from, for example, US fair use law, and therefore still runs the risk of confrontation with possible objections from copyright holders. As shown by the research conducted in the dissertation, these may include both the concerns of copyright holders and the need to maintain the creator's personal rights regarding the inviolability of the content and form of the work - especially since creating copies in formats accessible to persons with disabilities almost always involves making reproduction of a copyrighted work, which may violate personal rights. This situation is contrary to the international standard for ensuring accessibility for persons with disabilities established in the Convention on the Rights of Persons with Disabilities. Highlighting the insufficient consideration of the rights of persons with disabilities in national and international copyright standards, including the Marrakesh Treaty, the dissertation proposed to adopt a human rights framework for copyright insofar as it affects the rights of all people with disabilities.

3. In order to demonstrate the justification for introducing a unified exception to protection, the dissertation examines the origins and scope of the current system of exceptions and limitations to copyright provided for persons with disabilities, considering the relevant regulations of the international human rights system - both in relation to the rights of persons with disabilities and the rights of entities copyright. A special role in this respect should be paid

to the legislation of the universal and national systems. The analysis included the identification of historical exceptions and limitations of copyright law, which allowed them to be categorized and then to derive an assessment of their impact on the actual freedom of access to cultural materials in formats accessible to persons with disabilities. The research conducted led to the formulation of a question about the shape of a uniform, universal copyright exception, and the primary goal of the considerations undertaken in the dissertation was to determine a solution that would enable extending the scope of the system of exceptions and limitations to new groups of entities and objects. For this purpose, in the summary of the considerations, an attempt was made to construct a uniform exception to copyright law, harmonizing existing national and international regulations, which would cover the widest possible range of works and authorized persons regardless of the type of disability they have.

4. Although the dissertation is of a theoretical nature, individual considerations were supported by examples of judicatures, the subject of which was to consider specific factual situations and law-making issues, thanks to which it was possible to draw conclusions regarding the change in the paradigm of human rights in relation to copyright and the development of new supporting technologies and the resulting due to a gap in the norms of international law. The analysis included a number of sources, in particular legal acts at the level of the European Union, the United States of America, the United Nations and the World Intellectual Property Organization, setting the directions of policy towards persons with disabilities, scientific articles, commentaries, industry reports and journalistic articles. This allowed the instruments to be analyzed in a comprehensive manner, considering the specificity of individual areas of law.

5. The indicated research problem has not been previously discussed in greater detail in the Polish literature on the subject. The doctoral dissertation uses historical, dogmatic, empirical and comparative methods, and its content is divided into five chapters. The first chapter includes considerations on the development of a universal human rights system regarding the rights of persons with disabilities. The second chapter first characterizes the conceptual nomenclature of the expression "exceptions and limitations" of copyright law, and then focuses on the universal copyright system in terms of introducing exceptions and limitations for persons with disabilities to gain access to works and analyzing the activities of international organizations in favor of establishing the above-mentioned exception. The regulations of North American national legislation and the antecedents and consequences of concluding the Marrakesh Treaty were also discussed. The next, third chapter analyzes issues related to normative obligations to ensure digital accessibility on the example of selected assistive technologies. The fourth chapter

presents the normative actions taken by the European Union, the USA and African countries in response to the adoption of the Convention on the Rights of Persons with Disabilities and the Marrakesh Treaty. The fifth chapter, concluding the dissertation, contains conclusions and final remarks resulting from the considerations so far. The above-mentioned analysis also includes considerations regarding possible violations of the moral and economic rights of authors and other copyright holders. At the end of the work, a conclusion was formulated that the existing regulations were discriminatory. The lack of detailed and specific regulation dedicated to all persons with disabilities, covering a wide range of works protected by copyright, and thus relating to a wide range of works that can be transformed into accessible formats, does not fulfill the obligations expressed in the above-mentioned acts of international law. This justified the *de lege ferenda* demand that this issue - as a mandatory exception of copyright law - be regulated unambiguously. As a consequence, an attempt was made to formulate a universal, uniform copyright exception. His approach was based on the assumptions of a change in the paradigm of perceiving human rights in relation to copyright, and at the same time respecting the creator's right to receive remuneration.

6. The considerations carried out allowed for the expression of an opinion that the lack of an appropriate legal framework, especially at the international level, is an obstacle to the further realization of the rights of persons with disabilities, and that the existing system of exceptions and limitations in copyright law does not satisfy the obligation established in the Convention on the Rights of Persons with Disabilities to ensure equal access to cultural materials in formats accessible to persons with disabilities.

7. Dealing with the development of exceptions and limitations to copyright in the context of the human rights of persons with disabilities and the development of assistive technologies, the dissertation complements the existing literature on the subject with detailed information on the Convention on the Rights of Persons with Disabilities, regional human rights acts, the Marrakesh Treaty and selected national legislation.