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Abstract of Ph.D. dissertation

“Entering into agreement on the basis of the General Public License”

The aim of the doctoral dissertation is to perform legal analysis with focus on the possibility of entering into license contract on the basis of the General Public License, having regard to the fact that free software is commonly obtained from the Internet network.

It should be emphasized that computer program – thus a set of instructions intended to be executed on a computer – becomes free software as a result of applying, for the purpose of distribution, one of the free software licenses. It indicates that even software qualified as “free” constitutes copyright protected work, as long as it meets the conditions of protection included in the Article 1 of Act of 4 February 1994 on Copyright and Related Rights. Therefore, the author shall have an exclusive right to use the work, which means that any reproduction of the work by another person must be done with the appropriate permission.

General Public License confers on the licensee a wide number of rights, including a right to do permanent or temporary reproduction of the computer program. Given how free software is obtained, license contract is made through offer and acceptance. Conclusion of the agreement must be done with regard to the fact that free software is downloaded from the Internet network.

As research shows, the process of downloading a computer program constitutes reproduction of the work, thus must be done with the author’s appropriate license permission – otherwise obtaining free software from the Internet network will constitute copyright infringement. Consequently, the main research objective of this doctoral dissertation is to determine, whether it is possible to enter into agreement on the basis of the General Public License at the time of the downloading of the computer program from the Internet network.

Therefore, this doctoral dissertation analyzes if putting a computer program on an internet website along with the possibility of downloading it and indication of the contract conditions could be considered as an offer to conclude license agreement on the basis of the General Public License.

The findings of the research show that the contract could be concluded in the aforementioned way, but it is required to meet the conditions provided for in Article 384 of Act of 23 April 1964 Civil Code, which states that standard form contract, determined by one of the parties, shall be binding on the counterparty if it has been provided before the conclusion.

However, practice indicates that this requirement is often not met at the moment of downloading software – in many cases a potential licensee will be able to read the terms and condition of the General Public License after downloading computer program and starting the installation process. In this case a reproduction of the work should be considered as an infringement of author's economic rights in the computer program.