

## Doctoral Dissertation Abstract

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**Title:** Patent pledges against the background of Polish legal institutions, with particular emphasis on the License of Right

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Patent pledges are known in literature as voluntary public commitments made by patent holders to limit the enforcement or other exploitation of their patents without any direct compensation or other consideration. Although the best-known category of patent pledges, the so-called FRAND commitment, has attracted much attention in recent years, patent pledges have been appearing in many industries during the last decades: from electric cars to open-source platforms and green technologies. So far, the Polish doctrine of intellectual property law has not explored the role of patent pledges made outside standardization. This dissertation fills that gap by providing the first comprehensive analysis of patent pledges made outside of standard-setting through the lens of Polish law.

The essence of the main research objective of this dissertation boils down to the question of how to position the institution of a patent pledge within the Polish legal system. It first discusses the role of private ordering mechanisms – nonassertion covenants, patent pools and clearing houses - in mitigating problems systemic to the operation of the patent system. Then, patent pledges are characterized through the lens of various motivations behind their publication. Special attention is paid to Moderna's patent pledge and to the Open Covid Pledge initiative to assess whether they have, in fact, removed barriers to information and adapted to the COVID - 19 pandemic better than the regulatory framework. Secondly, a potential alternative to patent pledges, an instrument known to European legal systems for decades – License of Right (LoR) - is presented and evaluated in terms of its efficiency and popularity.

Finally, the key question answered in this dissertation is whether patent pledges are enforceable under Polish law. The general conclusion is that patent pledges cause considerable legal uncertainty and simply do not fit into the framework set by Polish regulations. The dissertation therefore concludes by arguing that LoR could be re-invented so that it can evolve into a tool which fulfils the objectives put forth by the proponents of patent pledges.

**Key words:** *patent pledges, License of Right, private ordering mechanisms*