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THESIS (SUMMARY)

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Intellectual Property in the Service of Sustainable Development

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TABLE OF CONTENTS

"I have read about the museum of extinct species in Ann and Paul Ehrlich's book. Going through the halls those creatures can be seen, which have already disappeared from our planet because of expropriation their habitat as a result of human intervention. In the last room stands a mirror."

Lányi András

1. The subject and the methods of research

1.1. Reasons for choice of subject

The citation above highlights an age- and societal phenomenon, which needs to be addressed. It is examined by economists, engineers, natural scientists, doctors, lawyers and representatives of many other sciences. The processes which make the world a more and more dangerous place can be experienced day by day from firsthand. The nature of mankind is extremely ambivalent. From the one hand, it can create amazing artistic, technical and human achievements, which makes us truly a valuable and creative civilization. Just look at for example the wonders of ancient times, the creations of Leonardo da Vinci or the Higgs-boson and gravitational waves as the results of the millennia old scientific improvement of humanity. The human mind is designed to achieve amazing things. But from the other hand it is capable of limitless destruction, and not only of destruction of its environment, but of destruction itself. We can see and feel the harmful and destroying effects of some human activities. In the military conflicts of mankind crowd of people are perished physically. The situation isn't much better in peace either. The economy, as the largest civilizational structure maintained by the few, can toss so many people into poverty and make their living impossible as the wars do. Lethal or humane economy? Asks David C. Korten in the title of his book for a reason. Meanwhile our most valuable treasure, the Earth has suffered serious damages during the last (especially the 20th) centuries. The planet and the ecosystem means the basics of biological existence of mankind. Despite of the fact, that it is an extremely complex system and we know only a small fragment of it, we don't protect it enough. As a result of this negligence our living and lifeless environment decays more and more faster.

Initially these harmful processes have been recognized by a few enlightened thinker, later more researcher and finally the international community. The result of this intellectual momentum is the idea of sustainable development, which was integrated quite quickly into the

public consciousness. Sustainable development has become a political buzzword and a scientific milestone as well. Many new area got into focus under the flag of sustainable development both in the national and international discourse, and in our everyday life. The UN climate change congress in Paris at the end of 2015 affirms that, because it was surrounded by unprecedented media interest. Besides, sustainable development has become a relevant scientific aspect, and every scientific branch tries to redefine itself in the spirit of sustainability and to serve sustainable development.

This dissertation also was born because of the need of redefinition. The law has to reflect to the scientific and social changes experienced around us. Independently from the fact, that we comprehend law as a retrospective phenomenon which follows the societal changes, or as the engine of changes like the tool of societal engineering, we got the same result. The idea of sustainable development is around us, but we have a lot to do in order to reach it. So the law cannot ignore it either. Originating from the regulative function of the law I prefer the active and forward looking role. It is the duty and obligation of the law to serve the society, so it has to create the legal framework which is suitable to integrate the idea of sustainable development and its goals.

This can be done with many tools even within the system of law. There are more area and legal institution in the private law which have a connection to the sustainable development goals. Such an area is the intellectual property right, and in the dissertation I analyze its connection points with sustainable development with the support of tools of legal sciences. This connection is barely researched in the Hungarian literature, although it is one of the most current topics abroad among the intellectual property researchers.

The aim of the analyzation of this connection is to determine that intellectual property rights how can facilitate sustainable development, or how can they pull it back. At the first glance the connection of these areas can be seemed surprising, but in the dissertation it will be clear that intellectual property rights how deeply affect the pillars of sustainable development. This connection isn't artificial or superficial but really intense and fertile.

I would like to emphasize that the dissertation isn't about only sustainable development and isn't about only intellectual property rights, but about the interaction of two of them. It may seem, that the first part is too long which analyze the structure of sustainable development, but that isn't purposeless. Namely, sustainable development is such a notion which has huge amount of scientific literature, however there are still many unanswered questions and contradictions. Therefore I believe that a few axiomatic pages about sustainable development isn't enough, because I build the whole examination of intellectual property about that notion.

If the basic notion is so controversial, it is absolutely necessary to examine it deeply, because the questions about sustainable development determine the answers in the system of intellectual property rights.

The concept of sustainable development is quite heterogeneous, it has more alternatives and much more critics. I can't accept the mainstream concept of sustainable development, and I highlight in the dissertation those crucial points which testifies that every element of this concept is controversial. I endeavor to synthetize such alternative theories, which can help to step on the sustainable path of human development.

After determining the starting point I analyze the system of intellectual property rights in the light of sustainable development. I don't intend to present the whole structure of intellectual property. Instead of I examine through a cross-section those selected legal institutions, which have positive or negative effects on the pillars of sustainable development. I don't write about the economic effects of IP forms separately but jointly, because they are fundamental economic tools, this way the whole IP system has a serious impact upon the economic pillar of sustainable development. So I will mention only their specialties at the different IP forms.

According to the main message of the dissertation the law doesn't exist just for itself and it isn't self-serving. It has to serve some useful and forward-looking societal goals. That is why I avoid the causeless legal thinking and to examine this field from the ivory tower of law just for itself. Instead of that I think about law as a tool to achieve a chosen goal. This approach originates from Nicolai Hartmann who developed the theory of final determination. According to this theory the chosen goal by the national legislators and the international community is the sustainable development, what goal inherently determines the suitable legal and non-legal tools for the reaching of that goal. So the choose of goal is also a choose of tool, and the duty of a lawyer is to find the best legal tools for the goal. The success of the choose of tool can be judged according to the effect of legal norms. Of course, this a long process and not a blink of an eye, because the realization of the goal, or the absence of it provides a permanent feedback about the correct regulation of the chosen legal tools. This approach describes how I wish to present the complex relationships between IP and sustainable development. In the first part of the dissertation I examine thoroughly this goal, its structure and logic in order to analyze based upon that the intellectual property rights as tools.

During the review of the legal tools I present the existing intellectual property rights from one side, which can be evaluated by the current feedbacks, and from the other side those new types of IP rights, which are held to be necessary in order to reach sustainable development.

This requires a selection, because from the wide and colorful field of IP law those segments have to be emphasized, which are relevant from the aspect of sustainable development.

Concerning to the new forms of IP it is important to be mentioned, that those are basically connected to the indigenous people and local communities. However, the dissertation doesn't intend to present the whole legal framework of indigenous people, but it does the potentially beneficial and useful IP forms for them.

1.2. Interactions of disciplines

Regarding the approach that I deem law as a tool for sustainable development, during the research I have to look out from the horizon of law to other disciplines, because sustainable development isn't a pure legal phenomenon. Because sustainable development is a result of synthetization of environmental, economical and societal sustainability, it is important to examine it from the aspects of these disciplines in order to use results of other sciences besides the law to get an exact picture about sustainable development. The jurisprudence and the legislation tries to give a legal framework for these non-legal phenomena, so the cohesion of the above-mentioned disciplines seems justified. Is it multidisciplinary or interdisciplinary? These notions are often confused. A multidisciplinary research is the involvement of more disciplines without their fusion, and the approaches of the disciplines prevail separately. The disciplines work here together in order to examine a phenomenon with their own methods and they keep their own attributes. In contrast, interdisciplinary is involvement of more disciplines with the synthetization of activities. Techniques and methods are permanently confused.[1]

Based on this starting point, I assume this dissertation an interdisciplinary work. My goal wasn't purely to set next to each other the different methods and results of more disciplines, but in the mechanism of final determination by Hartmann to combine the attributes of different disciplines in order to gain a new perspective and the promising new results.

The interdisciplinary within the legal sciences is also a feature of the dissertation. The classification according to the legal branches is complex, because the work was made in the merger of private law and international law. IP rights are considered as a specific field of private law, but this paper is far beyond the national level in the sense of territoriality. I examine traditional private law contents within the frames of international law, in the level of regional

[1] DUDÁS ANIKÓ: Az interdiszciplinaritás vonzásában: a társadalom-tudományi könyvtárak tudományterületi határainak alakzatai, in WITT, STEVEN W. – RUDASILL, LYNNE M. (eds.): *Social Science Libraries: Interdisciplinary Collections, Services, Networks,* 2010, De Gruyter Saur, Berlin – New York, oldalszám nélkül, http://ki.oszk.hu/kf/2013/04/az-interdiszciplinaritas-vonzasaban-a-tarsadalom-tudomanyi-konyvtarak-tudomanyteruleti-hatarainak-alakzatai/, 2016.03.02.

and international institutions. This is reflected by the list of references, because there are just a few national legal sources. The main frame of legal sources is given by the sources of national organizations, which contain more or less private law elements. This approach necessarily reflects interdisciplinary attribute, because I had to use the research methods of private law and international law at the same time.

The structure of the dissertation has two arranging idea. It leads us from the interdisciplinary and general social and natural sciences to the legal science. In the first part the aspects of different disciplines merge, in the second part appear next to them the tools of legal sciences, and the third and fourth part are mainly the field of legal researches. Besides, according to the same logic, the dissertation proceeds from the general to the special. In this context the first part is the general, goal-finder structural element, the second part is the – with private law wording – typical level, where the general aim and IP rights are assigned to each other, and the third and fourth part are the special level, where I analyze the different IP forms and their attributes.

As to the structural layout, the main part contain consecutively numbered chapters. After them stands the summarizing fifth part. Where in the chapters seems unnecessary to open a new chapter, but there is a new thread, paragraph titles lead the focus of reader.

1.3. Scrutiny of literature

The question of selection and use of sources belongs to the methods of dissertation. The used sources can be arranged in three groups. In the first group there are the primer legal sources, both normative and individual (like international treaties and court decisions). The second group contains those documents, studies and reports by international organizations, which analyze or interpret the primer legal sources. In order to maintain the plurality and avoid the propagandist approach, the third part of the sources is given by the critical scientific literature. With synthetization of these three pole I try to present more aspects and arguments in the sake of objectivity, and as the result of this I make my own statements and recommendations.

2. The main results of dissertation

The main thesis of my research could be summarized in the followings:

2.1. Thesis related to sustainable development

1) Sustainable development and within that environmentalism has very old roots, much older than international law would imply it, because in the ancient societies – mainly in

religious ground – the respect and protection of plants and animals, or the prohibition of wasting water appeared. Especially the Buddhist religion was quite progressive, because it didn't deemed the human as the landlord of Earth and living nature, but as their guardian. This way the primary duty of humanity is the preservation and protection, and not usage and overexploitation.

2) The forestry of 17-18. century was the second big step in the formation of sustainable development, and the sustainability as a scientific term was born at this time. Inter alia Evelyn, Colbert and Carlowitz have a huge contribution to the establishment of forward-looking and responsible way of thinking, what is an intrinsic element of sustainable development. Their main message is that the short-term, utilitarian and profit-seeking point of view is unsustainable. This message is much more actual today, than any time in the history before.

3) The three pillar model of sustainable development was already outlined in the 17-18. century, because of the above-mentioned authors made connections between the destruction of forests, the economic depression and the negative societal changes.

4) Sustainable development is hard to define properly. Development has many different meanings, and these could even compete each other, so it is quite important to determine what is sustainable development. In order to do that I analyzed the structural, evolutionary, technical, economical, democratic and legal aspects of development and I tried to find out how the different disciplines see the essence of development, and which interpretation could be the basis of sustainable development. There were born more theories about that from the '60-s, which focused on the different aspects of the unsustainable development (Carson, Hardin, Meadows, Schumacher, Jackson).

5) Sustainable development was defined by the World Commission on Environment and Development (commonly Brundtland Commission) in 1987 in its famous report entitled Our Common Future: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The mainstream concept of sustainable development relies on this definition today as well, the big world conferences didn't changed it in merit.

6) This definition brings up serious problems, if we don't examine the pillars purely in themselves, but in their interdependency. The deepest critics arise against the economic pillar. I deem those theories wrong, which identify sustainable development with

economic growth, or make the economic growth the center of sustainable development (e.g. the EU2020 strategy explicitly favors economic growth). The growth-centered development policy wants to reach a sustainable growing society, which is able to turn the environmental and societal situation. However this is a paradox, and such a model of sustainable development is structurally wrong.

7) The actual welfare steals the opportunities of next generation. A growth-centered development doesn't allow to step upon the path which is between the ecological limits, and the pure growth doesn't make the life better. A lot of studies and reports proves that the current level of consumption and production is far beyond the biocapacity of Earth. The only acceptable way of sustainable development is the respect of environmental limits. It provides the biological basis of human existence, so without a livable environment we can't talk about sustainability and humanity either. The Sustainable Development Goals (adopted in 2015) shows a significant move towards environmentalism contrary to the Millennium Development Goals.

8) The economy – just like the law – can't be self-serving and can't exist just for itself. There isn't any self-value, if an economy is small or big, product and consumes more or less. The only valuable factor is its impact on the quality of human life. The Stiglitz report, the theory of degrowth, the well-being economy and the theories introducing more alternate indicators highlights, that economic growth and GDP tells us nothing about the quality of life, moreover the macroeconomic growth can disguise the individual poverty. Consequently the economy should play a subordinate role.

9) In order to achieve considerable changes in environmental protection, first of all societal change of mind set and societal self-limitation is needed. But to do so, we have to eradicate poverty, repel diseases and improve education, otherwise there is no hope for the expansion of global environmental mind set.

10) In my opinion the ideal paragon of sustainable development can be described as the spiral and forward movement of dynamic interaction of the three pillars. Instead of that the experience shows that the pillars are divergent, they don't move in the same direction, but they are getting farther from each other.

2.2. Thesis related to the general connections of sustainable development and intellectual property rights

1) In order to make property and intellectual property suitable for incentive and protection of creativity and knowledge, it is necessary to properly build up the system of checks and balances on national, regional and international level as well. Otherwise they can conserve the material status quo and hold back progression. In the latter case they degrade to the tools of noxious growth-oriented development.

2) IP rights are more often mentioned together with human rights, what refers to the interpretation of development by Amartya Sen. For the connection of these fields there are two main theories. According to the first, despite of the common economical and societal roots, the two field get more and more far from each other, and they are actually in a conflict. According to the second theory, the two field complete each other, because their final aim is the same. Therefore the IP rights are integrated into the system of human rights, they are a part of it.

3) Ideally the two field should cooperate in order to reach sustainable development. However we can see exactly the opposite, there is competition between them. There is a need for paradigm-shift in order to make human rights and IP rights complementary fields instead of competing opponents. This means creating balance among right holders, users and the society regarding to sustainable development.

4) WIPO and WTO as the two most important international organizations of IP are suitable by their importance and role to be a forum, where IP rights and sustainable development can bring together. The WIPO Convention doesn't refer explicitly to tasks concerning sustainability, but the activities of WIPO in broader context shows a quite different picture. The establishment of WIPO was supported by the fact, that the developing countries have seen their biggest opportunities in technology transfer, and the developed countries have deemed very beneficial to create an organization, which sole purpose is to spread the concept of IP worldwide and to improve the national legislation.

5) The WIPO pays special attention since its establishment to the interests of developing countries and the serious responsibility of developed countries for the global development. This is in line with the role of WIPO as UN specialized agency, and it complies with the UN-WIPO Agreement adopted in 1974. According to the Agreement, the main objective of WIPO is to "promote creative intellectual activity and to facilitate

the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development". As an UN specialized agency, WIPO has to take into account the UN Sustainable Development Goals and to serve them.

6) When the WTO appeared and the TRIPS entered into force the international regime of IP rights has changed significantly and the political and legal relations have transformed. The Article 66.2. of TRIPS creates a close relationship between IP rights and technology transfer, what can be justified by many reasons. IP rights can be both incentives and barriers of technology transfer, therefore it is important to maintain a legal regulation what supports technology transfer in order to prevail the interests of developing and developed countries with the adequate checks and balances.

7) There are two different approaches about the relationship of IP rights and technology transfer. According to the supporters of strong IP regime the high level of protection facilitates the technology transfer through the requirements of disclosure and publication. According to the supporters of weak legal protection the IP rights hinder the international technology transfer, because the quasi monopolistic IP rights allow to the right holders to keep the prices high and to prevent the economic actors of developing countries to access to these technologies.

8) Since 2000 the so-called TRIPS-Plus agreements have become more popular, which are such bilateral or multilateral free trade agreements, what contain more rigorous IP rules than the TRIPS. The intensifying legal monopolies can slow down the long term innovation processes and suppress technology transfer, what is against the purpose of TRIPS.

9) 2007 was a milestone in the world of IP and in the activity of WIPO, when the Development Agenda was adopted. Briefly the Agenda is the intellectual property action plan for sustainable development. The Agenda defines 45 recommendations in 6 cluster, in which there are principles what affects the international community fundamentally. The implementation of these is essentially for sustainable development.

10) The Development Agenda isn't perfect, because there are more overlapping between the recommendations, they aren't always in a logical order, the classification into clusters isn't everywhere consistent and the level of abstraction of recommendations varies on a very wide range. Despite of these facts the Agenda is one of the most important document

in the world of IP, because it can renew fundamentally the IP system in the light of sustainability.

2.3. Thesis related to the connection of classical IP forms and sustainable development

1) Public domain is an important question in the case of every IP form, because the subject matter of protection and the intellectual creations excluded from protection have a huge impact on the relationship of IP and development. A core question is where are the limits of individual power and how big is the scope of freely used intellectual creations for the members of society. 16th and 20th recommendations of the Development Agenda prescribe the thorough examination of public domain and its positive effects, and they urge legislation to widening the limits of public domain and to create a robust public domain.

2) Other tool of making balance are the limits and exceptions, and many of them have close interaction with the pillars of sustainable development. They have to be defined broadly on international level, because the economic, societal and environmental circumstances of developing countries are different, so their interests demands different solutions. This way every country has to tailor its own IP regime.

3) Copyright can support the goals of sustainable development through the dissemination of knowledge. The access to knowledge determine the intellectual productivity and creativity of humans, because we can quickly and effectively create something new if we build upon the existing knowledge. Therefore it is crucial, that the rules of copyright what kind of opportunities allow to access information in the field of education and scientific researches.

4) The Appendix adopted in 1971 in Paris at the revision of Berne Convention was an important station in the development of copyright limitations and exceptions for education and scientific research. The aim of the Appendix is to provide flexibilities to developing countries regarding their economic, social and cultural needs, which can limit the exclusive rights of the copyright right holders. The Appendix tries to widen the cases of free use with the introduction of compulsory licenses for education and research, in the name of respect of the role of education and research in development. The Appendix provides flexibilities in the context of two economic rights for the developing countries. It allows in a very complex way to translate and reproduce works without the consent of

their author in the favor of education and research. Despite of the right goals of the Appendix, it hasn't become a widely used tool of developing countries. Because of the bureaucratic attribute the system of compulsory licensing is dysfunctional and works barely.

5) Patent law has an important role in each pillar of sustainable development, because as an extremely valuable competitive tool it can contribute to the economic development, in the context of pharmaceutical or food industry it may achieve essential social goals, and through the green innovation (environment-friendly energy-efficient technologies) it can facilitate the environmental endeavors. Besides these, through the disclosure requirement the patent documents provide access to the newest knowledge.

6) In the last decades biotechnology has become one of the most important field of patent-intensive industries, what has brought serious legal questions about the limit between patentable subject matter and public domain and other ethical issues. The recently closed Myriad case in the USA highlights that the biotechnological inventions as patentable subject matters are still in the center of serious debates. The Supreme Court said that only the artificial DNA segments are patentable, which are significantly different from the DNA in nature, so the living nature can't be patented limitless.

7) Public health is a core element of sustainable development, but unfortunately the Development Agenda doesn't contain any recommendation in this field. Despite of that WHO, WIPO and WTO pay special attention to the connection of IP rights and public health. The continuous extension of transitional period of TRIPS clearly reflects the public health situation in the developing countries. With complex system of transitional period according to the current state the developing countries have the opportunity to maintain such a patent system until 1. January, 2033, which doesn't fit to the TRIPS and serve their public health interests.

8) Because of the opportunity of deviation from TRIPS in some countries the stricter TIRPS-Plus rules prevail, in other countries the standards of TRIPS are in force, and in many developing countries the TRIPS-Minus regime can be observed during the transitional period.

9) It is an important patent law question whether the patented inventions can be used in researches. The requirement of disclosure provides the access to knowledge as a general societal interest. The use of patented inventions however requires special limitations and

exceptions for research, but this solution accepted only in a narrow scope in most countries. The Bolar case in the USA has had a pioneer role, which led to a legislation what has permitted the researches of bioequivalence for the drug approval process. This became a sample in many countries.

10) The preferential procedure for green inventions is a more and more examined question. Its legal aspects are more administrative rather than substantive civil law issues. In order to browse in these inventions, it is necessary to establish a classification system which allows to separate green technologies. On international level there are already new solutions: the international patent classification was amended with a Green Inventory, and the Cooperative Patent Classification launched by the European Patent Office and the USPTO gives an own section for these technologies. The other way of supporting green inventions is to grant patents faster. In order to do that, since 2009 more countries adopted preferential procedural rules for green inventions which can significantly shorten the patent procedure.

11) Trademark protection has slighter impact on sustainable development than the other IP forms. Primary it is important as a boost for economy and competition and this way can serve indirectly the other pillars of development. The "green certification marks" could be very useful in order to identify those products which were made from environment-friendly materials.

12) The definition of trademark is the most important question from the view of trademark public domain. In the EU it is a quite current issue, because the new trademark directive gives up the requirement of graphical representation (moving towards the liberal TRIPS definition of trademark), and this way there is wider opportunity to get protection. The other aspect of public domain are the grounds of refusal. From the view of sustainable development it is important to prevent the acquisition of cultural heritage. In my opinion to grant trademark protection as an individual intellectual property right on a century or millennia old cultural symbol can't be allowed, because it decreases the cultural self-determination of the affected society.

13) Geographical indications are important factors in sustainable development through the preservation of local values, culture and lifestyle. This fact was well represented at the Geneva revision of Lisbon Agreement in 2015. The system of geographical indications is interesting for the developing countries, and the consensual agreement in Geneva could be realized only through the balanced respect of the interests of developing and developed

countries. The regulation of geographical indications is interesting, because it differs from the other IP forms, it has a special characteristic, and its structure could be adequate for the new types of IP forms, which are forming in order to serve sustainable development.

2.4. Thesis related to the potential new forms of IP

1) Diversity is one of the most important element of sustainable development. This comes from the structural theory, because a diverse system can adapt best to the environmental changes. From this aspect diversity is the key of survival. Therefore the complexity and diversity of a system shall be protected. One of the endpoints of diversity is biological diversity, and the other endpoint is cultural diversity. The protection of biodiversity is related to the protection of genetic resources, and the protection of cultural diversity connects to the protection of traditional cultural expressions. Between them stands – partially linked, partially separated – the protection of traditional knowledge.

2) The protection of genetic resources, traditional knowledge and traditional cultural expressions indicate such a new direction within the IP rights, which declared aim is to facilitate the different aspects of sustainable development. These are such new, forming legal institutes, which aren't part of the universal system of IP yet, and maybe they never will be. In this process the WIPO tries to be a pioneer, but the end of its work is far away. The classic forms of IP can protect these fields only partially, this way the effective protection requires sui generis solutions.

3) The WIPO drafts on the protection of traditional cultural expressions and knowledge are very similar, they regulate their subject parallel, along the lines of classical IP forms. However the draft treaty of genetic resources is quite different, it embodies the defensive protection. It means, that instead of providing exclusive rights, it creates grounds of refusal for other IP forms.

4) The right holders, or with the new terminology, the beneficiaries of these rights are the indigenous people and local communities. This solution is unfamiliar in the individual system of IP, and requires the acceptance of legal capacity of communities.

5) Each new form are built upon the system of equitable access and benefit-sharing. This gives the economic side of these protections, what can serve the further development of the affected indigenous people and local communities. However this could be a danger,

because the technical and infrastructural development can the communities tear apart from their original and natural environment, where the protected values were born.

6) For the effective protection good searchable databases are essential, because in the absence of them it is barely possible to prevent granting IP rights for others about these values without consent. In order to establish databases, proper database protection system would be a good incentive. This can be done through the classical copyright protection and sui generis database protection, like the EU did. Unfortunately the issue of international harmonization of database protection isn't in the agenda of WIPO.

7) The draft treaties breach the principle of territoriality because of the specialties of beneficiaries and the subject matter of these protections, and because of the new philosophy of these IP forms. Indigenous people and local communities in geographical sense don't fit necessarily to the borders of states, and their genetic resources, traditional knowledge and cultural expressions don't connected solely to one country, so their effective protection requires the cross-border cooperation. Besides that, sustainable development is a global phenomenon, and these IP forms – serving sustainable development – have to regulated on global level.

2.5. Final thesis

1) The polarization of interests is palpable in the dissertation and it has a serious emphasis. We can talk about bipolarized system, where the interests of developed and developing countries collide, or about tripolar system, where the interest of transitional economies appear as well. This can be split further according to the opposition of east and west. The variegation of interests appears in the sustainable development as a whole, and in narrower sense in the subsystem of IP rights.

2) This polarization visibly (think about TRIPS, TRIPS-Plus and TRIPS-Minus) begins to stretch out the traditional framework of IP rights, and because of the spread of sustainable development the current legal constructions seem even narrower. This necessarily induce changes in every level of the legal system.

3) The expanding borders of IP system is reflected well by the draft treaties of new IP forms. Though we can't tell that these would become the part of IP system (maybe they won't) but clearly indicate that sustainable development requires new solutions. From private law aspect it is a hard question to figure out, how could this new forms be integrated into

the current dogmatics. However the system isn't unified currently either, because there are serious differences between the Roman-German and Anglo-Saxon legal systems, but the adoption of new IP forms cause both of them tough moments. The community legal capacity, the breach of territoriality and the benefit-sharing would be quite strange elements, but we have to remember, the IP law was always on of the most adaptive and progressive legal field, so the pure novelty or weirdness can't be an excuse.

4) As a final remark, we can say that to facilitate sustainable development, IP law could be a useful supporter. It has so strong incentive power what is essential to development. The whole dissertation reflects those connection points, where the IP rights have influence on the pillars of sustainable development. Therefore I can't accept the nihilist approach of public domain, which sees the key of sustainability in the elimination of IP rights. However I feel necessary to generally limit them. IP rights as tools for sustainable development aren't good or bad in themselves, everything depends on how we use them. With the strengthening of examined beneficial legal institutes and with the tearing down of disadvantageous elements and with the adoption of new IP forms the whole IP system could be an effective tool for sustainable development. The opposite national and international legislation degrades IP to a tool for individual economic power. The examined elements are just small parts of a complex system, but they have crucial role in order to create balance.

5) Law and within it IP law as a subsystem are suitable tool to help humanity to step onto the sustainable path. But it isn't enough alone. It is an important tool and frame, but can't realize all of the goals. We need serious societal changes, new way of thinking, new human values, which aren't primarily legal issues, but the law has to be a partner for these. We can't see the future, so we don't know whether these initiatives will be successful or not. However, the experiences justify pessimism.

3. Selected publications of the author

[1.] KESERŰ BARNA ARNOLD: A szellemi tulajdon a fenntartható fejlődés szolgálatában I. rész.: A szellemitulajdon-jogok hatása a fejlődésre [Intellectual Property in the Service of Sustainable Development I.: Impact of Intellectual Property Rights on Development], in *Iparjogvédelmi és Szerzői Jogi Szemle*, 2015/4. szám, pp. 5-17.

[2.] KESERŰ BARNA ARNOLD: A szellemi tulajdon a fenntartható fejlődés szolgálatában II. rész.: A szellemitulajdon-jogok globális szabályozása a fejlődésért [Intellectual

Property in the Service of Sustainable Development II.: Global Regulation of Intellectual Property Rights for the sake of Development], in *Iparjogvédelmi és Szerzői Jogi Szemle* 2015/5. szám, pp. 5-24.

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