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## POLAND SET TO INTRODUCE SPECIALIZED COURTS IN JULY 2020

On 19 February 2020, the Polish President signed an act that amends the Code of Civil Procedure along with other existing acts that impact the adjudication of IP cases, among other areas of law ("**the Act**"). The Act will enter into force on **1 July 2020**, and the courts will be operational from this date. The changes represent a positive step forward for the Polish court system. There have been discussions regarding the creation of a specialized court to settle intellectual property matters for many years, and the Act will make that a reality.

For the effective adjudication of IP cases, it is important to have highly trained judges who are familiar with topics related to IP matters. The changes incorporated in the Act will result in an increase in the standardization of the application of IP law and will thus improve the efficiency of proceedings.

### Current structure relies on regular courts for different IP cases

Claims in Poland involving alleged infringements of intellectual property rights – including, for example, claims of piracy with respect to copyrights and trademarks – are currently heard by common courts and the Polish Supreme Court. Some cases in the field of industrial property law, including complaints regarding the decisions of the country's Patent Office, are handled by the Provincial Administrative Court in Warsaw and the Supreme Administrative Court.

Cases related to community trademarks and community industrial designs are examined by a special department of the District Court in Warsaw – the Court of EU Trademarks and Community Designs.

### New courts will be focused on specific areas of IP

New departments for IP matters will be created at the District Courts in Gdansk, Lublin, Poznan, and Warsaw, and specialized departments will be established at the Courts of Appeal in Warsaw and Poznan.

The Polish Act introduced a rather broad definition of "intellectual property matters" to be recognized by the new IP courts. It covers not only matters in the field of copyright protection and industrial property rights, but also, among others, the prevention and combating of unfair competition, and in some cases, protecting personal rights, for example when using personal rights for the purposes of advertising or promoting goods and services, and protecting personal rights in connection with scientific and inventive activities.

The specialized court within the 22nd Department of the District Court in Warsaw, which already had the competence for cases involving EU trademarks and community designs, will now also have the exclusive competence to handle cases regarding computer programs, inventions, utility models, topographies of integrated circuits, plant varieties and technical secrets of an enterprise.

### Professional representatives in IP matters

To speed up proceedings in matters of intellectual property, the Act implements mandatory representation by professional representatives, meaning legal advisors, attorneys and patent attorneys. An exception to this requirement will only be allowed in two situations: in cases where the circumstances, including the degree of complexity of the case in suit, do not require the involvement of specialized IP representatives. For example, this could be the case where an employee of a collective management organization for copyright or related rights is familiar with the underlying facts and the legal issues of the matter. The other exception will be in cases where the value of the subject of the dispute does not exceed PLN 20,000 (approx. EUR 4,515).

### Important changes will affect court proceedings

The legislature has envisaged new legal measures that will enable a more comprehensive examination of disputes regarding intellectual property. Among other things, the Act allows for counterclaims to be filed in infringement matters, with request for invalidation or revocation of a trademark or for invalidation of an industrial design. The Act also allows for requests for disclosing or issuing evidence held by the infringer, in particular bank, financial or commercial documents concerning the infringement. This can be done by a bailiff (for example, in the event of a request for the release of an item or document) or in court (in accordance with the provisions on the enforcement of non-cash benefits, for example, in the event of a request to access the database).

### COVID-19 unlikely to impact timelines

The changes will enter into force on 1 July 2020. The rationale for choosing this date was to adjust the structure of the courts and to train the staff. Wolf Theiss has obtained information from the Ministry of Justice that despite the outbreak of COVID-19, the date will remain unaffected.

## About WOLF THEISS

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For more detailed information on the upcoming changes in the field of IP law, please contact:



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