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Abstract

"Scope of distinctiveness of a trademark on a comparative background of European Union and United States law"

The main objective of the dissertation is to create a universal and unified model of legal solutions, allowing for an effective assessment of the scope of distinctiveness of trademarks, which would be possible to implement in the process of harmonizing trademark protection law in the European Union and the United States, assuming that the indicated international entities will undertake harmonization activities aimed at to unify protective systems. The purpose of the scientific work is determined by the research hypothesis around which the research is focused, and which is: models for assessing the distinctiveness of trademarks in the European Union and in the United States are possible to be unified.

The legal systems that have been analyzed in the course of the research are the trademark protection systems in the European Union and in the United States. A trademark is a normative concept that occurs in both legal systems. Each of these systems also assigns a special protection to it, which depends mainly on the distinctiveness that a mark has.

The dissertation has been divided into five chapters, within which various research methods have been used, such as: the historical-legal method, the formal-dogmatic method, the comparative-legal method and the contextual method.

The first chapter deals with the harmonization and development of trademark law in the European Union and the United States. As part of it, the process of shaping the regulations on the protection of trademarks in both compared systems was presented.

The second chapter contains a closer description of distinctive signs in the law of the European Union and in the law of the United States. It presents definitions of trademarks and their individual components. This made it possible to determine the most important elements that would have to be unified in the process of harmonization in order to achieve the main goal of the dissertation.

The third chapter presents the concept of inherent distinctiveness in the European Union and the United States. The methods of assessing the degree of distinctiveness of trademarks and the matrices used in both systems, also known as spectra or ranges of distinctiveness, are also presented, which are the main models for assessing the intensity of the analyzed

feature. This chapter also focuses on the presentation and comparison of methods and legal tools used to assess the distinctiveness of individual types of trademarks, distinguished on the basis of their sensory perception in both systems.

The fourth chapter is devoted to the analysis of the concept of secondary distinctiveness and the ways in which a trademark acquires distinctiveness as a result of its use in the course of business.

In the fifth and last chapter, an attempt was made to present a proposal for a unified model for assessing the distinctiveness of a trademark, which can be implemented in the law of the European Union and in the United States, assuming that the indicated international entities will undertake harmonization activities aimed at creating a common protection system. The above-mentioned model consists of proposed solutions unifying the definition of a trademark, the concept of inherent and secondary distinctiveness, and methods of assessing the distinctiveness of various types of trademarks. Indicating the proposed models of solutions is the implementation of the main goal of the dissertation.

The doctoral dissertation ends with final conclusions, which are also a summary of the research carried out.