

jak szkoda, związek przyczynowy czy zdarzenia mające znaczenie dla obliczania terminów przedawnienia<sup>65</sup>.

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## LEGAL INSTRUMENTS DELAYING THE INTRODUCTION OF GENERIC MEDICINES TO THE MARKET – SELECTED ISSUES

In this Article the Author analyses the most important issues arising from the interaction between intellectual property law, competition law and the right to redress. For almost ten years, the European Commission has been monitoring the various market practices used by participants in this market, which may result in a violation of competition law. In particular, there are some doubts about reversed payment patent settlements aimed at delaying the introduction of generic medicines to the market, as well as other practices aimed at disrupting the normal functioning of the pharmaceutical market. The analysis of different practices in the pharmaceutical sector (in addition to the aforementioned agreements, we may involve various patent strategies, such as the creation of patent thickets) may bring us to the conclusion that such behaviour can be seen as the form of abuse of patent, but also abuse of a dominant position, simultaneously raising questions about the consequences in the field of law of damages. As such market practices show, they can also influence the position of consumers and others interested in lowering the price of a generic drugs (a substitute for an original drug that can be marketed after the original drug's patent protection expires) but also affect the health policy of the state. In addition to the consumer, which is the "last link" of the generic buyer chain, the economic interest of the public or private co-financier of access to medicines by patients should also be taken into account. In Poland, commercialization of generic drugs undoubtedly remains in the interest of the National Health Fund and the state budget. From the point of view of reimbursement, the author analyses various legal instruments aimed at delaying the marketing of generic medicines, indicating their legal consequences.

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<sup>65</sup> Zagadnienia dotyczące szacowania wysokości szkody i świadczenia odszkodowawczego w omawianym zakresie są przedmiotem artykułu M. Wałachowskiej, *Damages for restraints on competition: a case of private enforcement in the pharmaceutical sector*, „Ius Novum” 2017, Vol. 11, No. 4, s. 95–118.