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Abstract:

The article addresses the issue of preliminary contracts in copyright trading and during licensing. The text justifies the admissibility of such contracts, taking into account the belonging of copyright law to civil law and the nature of preliminary agreements as a general institution of contract law. The analysis covers the required content of such a contract, in particular the obligation to indicate in it the fields of exploitation of the work, and the issues referring to concerning the form of the contract. The work also covers the consequences of a breach of a preliminary contract and the issue of damages. An analysis of the provisions of the Copyright Act in the context of preliminary contracts is also considered. An assessment is made as to whether the provisions on transfer of copyrights and license agreements also regulate preliminary contracts, and what effects a court's judgment will have as a substitute for a promised agreement if the debtor evades its conclusion. The analysis will also deal with the possibility of a performance on account of the promised contract reserved in the preliminary contract. Particular attention will be paid to the issue whether copyrights may be subject to such consideration and to the rules of settlement of the parties if the promised agreement is not concluded. The matter of preliminary contracts will allow to consider the scope of cases covered by the special legal procedure in intellectual property cases recently introduced into the Polish legal system. The article will present the admissibility and the scope of application of preliminary agreements in copyright law and the usefulness of this institution.