

EIP

Brexit – what happens to your EU rights after the Transition Period?

As we approach the end of the transition period, which expires on 31 December 2020, it is timely to provide an update and reminder about the impact of Brexit on EU Trademarks and Registered Community Designs (RCDs).

Trademarks and Designs

Once the transition period ends, EU Trademarks and RCDs will no longer have effect in the UK.

However, protection in the UK will still be maintained since the EU registrations will be “cloned” on to the UK register as comparable UK national rights. The UK national registrations will exactly copy the subject matter and effective dates of the original EU registration, and will be subject to the payment of renewal fees, on the same schedule as, but independently of, the remaining EU right.

This will also apply if the EU is designated in an International Trademark or Design registration under the Madrid Protocol or The Hague systems. Please note that a UK national right is provided in these circumstances, not a UK designation in the international registration.

Where a UK comparable registration is provided, if the proprietor does not desire the UK right, then it is possible after 1 January 2021 to “opt-out” of receiving it and it will be retrospectively cancelled. This may be of interest, for example, if a UK application was already filed at the same time as the EU application. However, in general we envisage that if the UK right is not required, then it may be easier simply to allow it to lapse at the next renewal date.

If the EU right is not yet registered, or, in the case of a Community Registered Design, is registered with deferment of publication, no corresponding UK right will be provided automatically. However, the applicant will still be able to apply for a corresponding UK registration for the same subject matter, keeping the effective dates of the EU application, within nine months of the expiry of the transition period, i.e. by 1 October 2021.

We confirm that EIP can and will continue to handle both EU and UK trademark and design cases. Our procedures to deal with the practical consequences of the UK no longer being a part of the EU intellectual property regime are already in place.

Patents

Brexit has no effect on patents. The UK has no plan to leave the European Patent Convention, which is not an EU organisation, and EIP will represent our clients in filing both UK national applications and applications at the European Patent Office in exactly the same manner whether the UK is within or outside the EU.

If you have any questions about the issues raised in this update, please contact any member of the EIP Brexit Committee listed below, or your usual contact at EIP, by email or by calling +44 (0)20 7440 9510.

Darren Smyth

Claire Lehr

Paula Flutter

Andrew Sharples