EIP

Brexit and IP: Business as usual during the transition period

The UK leaves the EU on 31 January 2020 – but until at least the end of 2020 it will be business as usual for intellectual property rights.

The Withdrawal Agreement between the EU and the UK was concluded on 24 January 2020 and was approved by the European Parliament on 29 January 2020. In consequence, the UK ceases to be a member of the European Union as from midnight Central European Time on 31 January 2020.

However, the Withdrawal Agreement provides for a transition period until 31 December 2020, during which the UK remains a full participant in the EU intellectual property regime, including the EU Trademark and Community Registered Design systems. This means that EU Trademarks and Community Registered Designs will continue to have effect in the UK until at least the end of 2020. It will be "business as usual" until then.

The transition period can be extended by up to two years, but any such extension must be agreed before 1 July 2020. While the UK Government has indicated that it will not seek an extension, this position may change in the coming months. In any case, by July 2020 it will be clear one way or another when the transition period will end.

Trademarks and Designs

Once the transition period ends, EU Trademarks and Community Registered Designs will no longer have effect in the UK. At that date the UK will automatically provide a "comparable" UK registration whose subject matter and effective date will be identical to the registered EU right. This comparable registration will then 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 EU is designated in an International Trademark or Design

registration under the Madrid Protocol or The Hague systems (note that a UK national right is provided, not a UK designation in the international registration). If EIP is responsible for cases affected by this provision, we will contact you separately about this.

If the EU right is not yet registered, or, in the case of a Community Registered Design, registered with deferment of publication, then no rights in the UK will be given automatically – instead, the applicant will have the option to file a UK application for the same subject matter, maintaining the same effective filing date, within nine months from the end of the transition period. Again, if EIP is responsible for cases affected by this provision, we will contact you separately about this.

EIP will continue to handle both EU and UK trademark and design cases, and we already have mechanisms in place to deal with the consequences of the UK no longer being part of the EU intellectual property regime.

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