

Brexit's Impact on European Trademark Rights

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For the past twenty-five years, businesses seeking to protect marks used in the United Kingdom (UK), that is, England, Scotland, Wales, and Northern Ireland, have had a choice for protecting their trademarks. They could either register at the UK Intellectual Property Office or protect the mark through a European Community Trademark (EUTM) registration. Because the latter provided even broader coverage, including the UK and extending into the European Economic Area, many clients had opted to use the EUTM registration route.

But with the UK officially leaving the European Union on January 31, 2020, trademark owners have been wondering about the status of their existing EUTM applications and registrations. Further questions existed about how Brexit would impact future trademark or design applications. The answers to these open questions are finally coming into focus.

Here is a short summary:

First, the UK will be abiding by EU legislation, including the filing, scope, and protection of EU trademarks and EU design rights through a transition period that is currently scheduled to end on December 31, 2020. No changes in trademark protection choices or process will occur before that date.

Second, the UK Government has now passed legislation about how intellectual property rights will be affected by Brexit going forward. For example, all EU trademarks registered at the end of the transition period will be automatically cloned into new UK registrations at no cost to the registered owner, although owners can opt out under certain circumstances.

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Finally, pending applications and expired marks and designs have their own transition scenarios that are highly fact specific. If you have registered or planned marks or designs you would like to use in post-Brexit UK, please contact us for a proactive review of your portfolio and the choices afforded by this new legislation.