

Impact of “Brexit” on Trade Marks and Designs

The historic vote in the UK to leave the EU will have far-reaching consequences, but the UK will remain a full member of the EU while an exit package (a “Brexit”) is negotiated. That process, which is provided for by Article 50 of the Treaty on European Union, is expected to take at least two years, and could be much longer.

The implications for trade mark owners will become clearer as the exit negotiations proceed over the next few years, and we explore below some of the practical considerations for Trade Mark owners.



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The EUIPO (formerly known as OHIM) is an EU institution. Therefore, the eventual departure of the UK from the EU is likely to mean that EU Trade Mark (EUTM, formerly CTM) Applications and Community Design Applications filed **after Brexit** will no longer cover the UK. However, it is expected that the UK will enact transitional provisions to provide continued protection in the UK for any EUTMs or Community Designs that are in existence as of the date of actual exit, ensuring that existing rights will continue to be recognised and perpetuated. Exact details of those arrangements are of course a long way off.

In the short term, particularly in view of the uncertainty regarding the timescales of any potential law changes, there is no need for any dramatic change in strategy for the protection of trade marks and designs in the EU and UK. International brand owners may wish as a precaution to consider filing additional UK national applications for key trade marks and designs of particular strategic importance,

particularly given current favourable exchange rates. However such action should not be necessary to maintain ongoing trade mark or design rights in the UK where an EUTM or Registered Community Design is already in place.

On the other hand, whilst the transitional provisions are likely to recognise seniority claims made from lapsed UK TM Registrations, brand owners may wish to consider revising their renewal strategy with respect to seniority claims. Right-holders who already own parallel UK and EU Registrations for the same trade mark, where the EU TM claims seniority from the UK Registration, would be well advised to continue to renew both parallel Registrations for the time being.

From the date of actual departure from the EU, it will be necessary to seek protection in the UK for trade marks and designs separately from the EU.

Abel & Imray are of course always on hand to advise on how best to protect marks and designs throughout Europe, both during the exit negotiations and in the post-Brexit world.

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