

BREXIT AND IP – UPDATE 21 JAN 2019

Brexit – Patent Implications

Although it may be obvious to those in the know, the UK's exit from the EU will not affect the current European patent system, which is governed by the European Patent Convention rather than the EU. As such, whatever the outcome of Brexit, UK individuals and businesses will continue to be able to apply to the European Patent Office for patent protection and European patents will continue to apply to the UK. Existing European patents that have been pursued in the UK will also be unaffected. Moreover, Murgitroyd's European patent attorneys, wherever they are based, will moreover continue to be able to represent applicants before the EPO.

You may ask what effect Brexit might have on the Unified Patent Court (UPC), which as you may know is intended to be a court having exclusive competence in respect of European patents and European patents with unitary effect. In this respect, the UK ratified the Unified Patent Court Agreement on 26 April 2018 and it is our understanding is that the UK intends to stay in the Unified Patent Court and unitary patent system even if the UK leaves the EU.

As regards the granting of Supplementary Protection Certificates (SPCs) for certain patents relating to medicinal or plant protection products, while the UK remains a full member of the EU, businesses can continue to apply for and be granted SPCs using the current SPC system. Our understanding is that once the UK leaves the EU, UK businesses will still be able to apply for SPCs in all remaining EU Member States under the existing system. We understand also that the UK will maintain the current SPC legal framework in the UK if we leave the EU.

As such, despite Brexit, it is business as usual in relation to patents in Europe.

See Murgitroyd's other Brexit updates by visiting [the Legal Updates page here](#).

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