

CERTAINTY IN UNCERTAIN TIMES? BREXIT UPDATE ON INTELLECTUAL PROPERTY

Are you still wondering what will happen to your IP if there is a no deal Brexit on 31st October. And has the position changed since no deal was last faced in March?

In short, the answer is no, although there is more certainty in that the legalisation implementing what will happen to affected IP has now been finalised. To summarise, the following will come into effect, deal or no deal:-

1. Owners of existing EU Trade Mark registrations and Community Design Registrations will be issued automatically and without charge by the UK Government, a comparable UK registration, mirroring the same details and dates;
2. Owners of existing EU Trade Mark applications and Community Design applications will have a nine month period following Brexit (31 July 2020) to request a comparable UK application mirroring the same details as their EU applications, but will have to pay official fees;
3. Comparable UK registrations due for renewal in the six month window after Brexit will still need to be renewed in the UK, even if the EU renewal was undertaken.

Do trade mark or design owners have to take any different action now?

If you are launching a new product in the UK, there is some benefit to filing a separate UK trade mark application now, even if you file an EU TM application, as such an EU TM application filed now will not be registered by 31 October 2019. While a comparable application can be requested later, with the UK TM registration procedure being so quick, owners could potentially have a UK TM registered by November (again with the payment of the official fees). Design registration is a much faster process, being a deposit system, and therefore is less of an issue. You will of course need a separate UK and EU registration after Brexit for both your trademarks and designs.

Any other actions you should take?

If you have registered a .eu domain name, check you/your business can still hold on to it after Brexit – it requires to be held by an EU individual or entity with an address in an EU member state. It has been agreed that a two month period to alter details will be allowed. Also, if counterfeits are an issue, and an EU wide customs application for action watch is in place, this will be affected and you should discuss options with your advisors.

And if there is a deal after all?

The current proposed transition phase will commence, with the status quo remaining until 31 December 2020, and thereafter the above taking effect.

Murgitroyd has offices in the UK, France, Ireland, Finland, Germany, Italy and Switzerland, with established attorneys in place for many years, and can offer direct representation in 14 member states, providing certainty in uncertain times.

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