

# Brexit and what it means for your IP

Following Brexit, the UK is now in a transition period which will likely last until 31 December 2020. During this transition period, EU trade mark and registered design filings will continue to cover the UK. European Patents are in any case unaffected by Brexit.

Mathys & Squire's ability to represent its clients in the UK and Europe will not be affected by Brexit (even after the transition period). As a firm, we remain a European business with offices in the UK, Germany, Luxembourg and France, and we will continue to represent our clients across Europe.

On this page, we hope to dispel some of the myths surrounding how patents, trade marks and design rights will in due course be affected by Brexit.

## European patents

- The European Patent System is not affected by Brexit. The UK is, and will remain, a member of the European Patent Convention (EPC), as the EPC is unrelated to the EU.
- There are already a number of other countries which are members of the EPC but which are not members of the EU.
- UK-national European Patent Attorneys will still be able to act before the EPO after the end of the transition period.
- Patents will continue to be enforced against infringers in the national courts as before.

## EU Trade Mark Registrations (EUTMs)

- UK-based companies can continue to file and own EUTMs.
- After the end of the transition period, new EUTMs will no longer extend to the UK.
- Registered EUTMs will no longer extend to the UK, but will automatically be 'cloned' to create equivalent UK rights.
- For pending EUTM applications there will be an option to refile in the UK and retain the same filing date. There will be costs involved and the new application will go through the UK examination process.
- After the end of the transition period, a separate UK Trade Mark Registration will be needed to obtain protection for new marks in the UK.
- Use of a trade mark only in the UK will no longer be sufficient to keep an EUTM registered.

## Registered Community Designs (RCDs)

- UK-based companies can continue to file and own RCDs.
- After the end of the transition period, new RCDs will no longer extend to the UK.
- Existing RCDs will no longer extend to the UK, but will automatically be 'cloned' to create equivalent UK rights.
- After the end of the transition period, a separate UK Design Registration will be needed to obtain protection for new designs in the UK.

## The Hague International Design System

- The Hague system allows a design to be registered in several territories starting from a single international application.
- After the end of the transition period, UK applicants will continue to be entitled to use The Hague system as the UK is now a party to the Hague Agreement in its own right.

## Unregistered Designs

- Designs that are protected in the UK as EU Unregistered Design Rights at the end of the transition period will continue to be protected in the UK as Continuing Unregistered Designs (CUD), which will be established automatically at the time of Brexit.
- A new 'EU equivalent' UK Supplementary Unregistered Design (SUD) right is also being introduced to mirror the protection currently provided by EU unregistered design rights.

### Litigation

UK courts will continue to pass judgment on UK IP rights, including European patents validated in the UK (and any registered EU trade marks and designs that have been converted into UK rights).

### EU & UK filing packages

In light of the ongoing uncertainty regarding Brexit, the Mathys & Squire trade mark and designs teams are offering exclusive discounts and fixed fees on EU & UK trade mark and design filing packages:

### EU & UK trade mark filing packages

Filings covering both the EU and the UK (one class) at a discounted, fixed fee. This fee will cover all costs up to the issuance of the registration certificates, with the exception of official objections or third-party opposition. Additional class fees will then carry a discount.

### EU & UK design filing packages

Filings covering both the EU and the UK at a discounted, fixed fee. This fee will cover all costs up to and including the issuance of the registration certificates. This fixed fee assumes we receive the drawings in a ready to file format and excludes the cost of any official objections. Additional designs in a filing will also carry a discount.

Mathys & Squire is proud to employ people of different nationalities, with many coming from countries within the EU. We have already taken steps to ensure that the firm has a number of locations inside the 'post-Brexit EU' (i.e. without the UK). This places us in a strong position to be able to handle both UK trade marks and designs, as well as EU Trade Mark Registrations and Registered Community Designs, and we have been working with our clients on cost-effective strategies for doing so.

We shall of course update our clients and contacts when we have further news regarding the IP implications of Brexit.

**In the meantime, if you have any questions, then please contact your usual Mathys & Squire adviser, or for more information on this topic, please contact [brexit@mathys-squire.com](mailto:brexit@mathys-squire.com).**

