

Brexit: Bracing for IP Changes

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The United Kingdom is due to leave the European Union on March 29, 2019 (Brexit day). If the UK does leave the EU under the currently proposed terms, then the UK would enter a so-called transition period ending on December 31, 2020 and the current status quo would effectively be maintained during this period. However, the UK Parliament recently refused to ratify the current terms of withdrawal and there remains a risk that there will be a “no-deal” Brexit that would not include any transition period. From an [intellectual property](#) perspective, these uncertainties and tentative changes should be taken into consideration in the upcoming weeks when developing international filing strategies.

Trademarks

A no-deal Brexit has substantial implications for the continued protection and enforcement of EU trademarks in the UK. However, the position as it stands under the current agreement will be as follows:

- EU trademark registrations currently on the register will have a duplicate UK registration automatically added to the UK register (no new filing required);
- Current EU applications will have the same procedure once registered, even if the registration date is post-Brexit; and
- For trademark applications post-Brexit, [two filings](#) will have to be made to cover the former 28 countries of the EU (one UK direct application and one EU application).

Under these prospective events moving forward, it is not anticipated that the EU Intellectual Property Office will decrease their costs for an EU application (because the territories covered decrease from 28 to 27). *Accordingly, it may prove cost effective to file any anticipated EU applications before the March 29, 2019 deadline to avoid the need to file two applications.*

Patents

There will be no change to the application processes for UK and European patents. Patents covering the UK are granted by two organizations: the UK Intellectual Property Office (UKIPO) and the European Patent Office (EPO). Applications for patents can be filed directly with the UKIPO or EPO, or can be made pursuant to an international patent application filed under the Patent Cooperation

Treaty. Neither of these organizations are EU institutions and they will continue to function after Brexit.

Domain Names (.eu)

To register an .eu domain name, a person or entity must reside in or be established within the European Union. As a result, effective from March 30, 2019 (in the event of a no-deal Brexit) to January 1, 2021 (in the event the withdrawal agreement is ratified), entities that are established only in the UK - and natural persons who reside in the UK - will no longer be eligible to register .eu domain names, or to renew .eu domain names registered if they are .eu registrants, before Brexit day.

EURid, the registry manager of .eu domain names, has published a notice on its website which states that a no-deal Brexit will have the following consequences:

1. UK registrants of .eu domain names will have until May 30, 2019 to update their contact details to an EU address or to transfer their domain names to an EU resident. During this period, their domain names will remain active but cannot be transferred to a UK registrant and will not be automatically renewed (but instead moved to “withdrawn” status).
2. As of May 30, 2019 all registrants that do not demonstrate their eligibility will be deemed ineligible and their domain names will be withdrawn (that is, they can no longer support any active services such as websites or email), but they will remain in the .eu registry database and may be reactivated if the eligibility criteria are satisfied. On March 30, 2020 all the affected domain names will be revoked and will become available for general registration (which gives rise to a risk of cybersquatting).

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