

BREXIT ALERT

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What Does “Brexit” Mean For Your Valuable Trademarks and Brands?

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By now, most have heard about the potential political and economic consequences of last week’s historic UK vote to exit the EU. What you may not have considered, though, is the effect of “Brexit” on your trademarks and brands. This alert provides some thoughts about what may happen and puts forth a few thoughts for going forward.

“Brexit” will involve at least a two-year transition period during which the UK will negotiate with the EU in an effort to secure access to the EU trademark offices and systems currently in place. Thus, there is no immediate risk of loss. Currently, EU Trademarks (formerly “Community Trademarks” or “CTMs”) and Registered Community Designs remain valid in the UK, and our European colleagues assure us that there is no short-term risk of losing existing rights in the UK.

So what will happen over the next few years? One possible scenario is that, once the transition is complete, EU Trademarks and Registered Designs will be grandfathered in on the UK National Registers, where they will then simply be treated as UK national rights, contemporaneously as they continue in force for the rest of the EU. In short, while it is not a certainty, most UK trademark experts believe there will be some type of mechanism for transitioning existing EU Trademarks and Registered Designs to their UK analogs.

Although unlikely, waiting for this to happen could create future risks to your valuable brands and marks. Fortunately, there are steps you can take now to mitigate potential risks, no matter what the future may hold. First, you might consider putting a UK trademark watch service in place. This low-cost service would notify you if a “trademark squatter” were to jump in ahead of you and file an application to register one of your EU Trademarks in the UK, allowing you to take quick and decisive action to oppose the interloper. Second, you may wish to file national registrations now in the UK for your most valuable marks, as a precaution in the unlikely event that the expected transition of EU rights into UK national rights does not occur. We are happy to provide cost estimates for both options upon request.

Please contact Terry Link or Sue Ketler if you would like to discuss these options; we welcome your questions and would gladly assist you with these matters or any others.

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