

How will Brexit affect my EU registered Trademark?

It has now passed the two-year mark since the decisive referendum where the UK public voted to leave the EU. With the official leaving date set as Friday 29th March 2019, and intellectual property rights low priority on the negotiating table, it is understandable that there is much confusion around existing Trademarks, and the future rights going forward.

As it stands, a trade mark can be registered either directly in the UK, or via what is known as a European Trade Mark (formerly known as a “Community Trade Mark”) which encompasses all current 28-member states. It is virtually certain that for the foreseeable future there will be no change in laws or regulations for a UK registered trademark.

In January of this year, the EU set out its position regarding existing European Trade Marks in the UK . From the 29th March 2019, a European Trade Mark would no longer be applicable in the UK and will only cover the remaining 27 territories.

However, since that paper was published, the UK has responded with a Brexit Paper. The UK government has in principle agreed that any European Trademark will automatically be recognised within a UK trademark right. Therefore, at the time of writing, it appears that after the UK formally leaves the European union, any European trademark registered before the end of 2020 will still cover the UK for the duration of the trademarks life.

As at this stage with nothing having been confirmed, BKIP would recommend prospective trademark owners analyse how important the UK market is for their trademark. If the UK is an important territory, double registering as both a UK, and European Trademark will ensure maximum protection and prepare businesses for treating the two trademarks as separate entities. With BKIP’s new dedicated UK office and low UK government registration fees, BKIP group can offer you competitive pricing to ensure your brand continues to receive protection within the United Kingdom. With the probable loss of one of the biggest markets from the European Trade Mark, it is recommended that clients decide whether a European wide Trade Mark is still applicable to them, as it may be more cost effective to register in the UK and any other European countries that the brand needs trade mark protection under. It is crucial to note that the Brexit position is constantly changing, and until anything is confirmed,

Finally running within the theme of Brexit, the word “Brexit” has been successfully trademarked . Originally it was deemed that Brexit could not be trademarked due to the fact it lacked distinctive character and surprisingly was contrary to public policy and morality. However, upon appeal, it was held that due to the memorable word, it had distinctiveness and is thus now a trademark.

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BKIP (UK)