



B&B Bulletin – Special Issue

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Post-election Brexit update on trade marks and designs

1. What is the current situation?

Brexit is approaching but the Agreement remains to be ratified and transformed into UK laws.

On October 28, 2019 **another extension** has been agreed until **January 31, 2020** the latest. Until then, the UK remains full member of the EU with all rights and obligations. There are no immediate changes for right owners at this time.

It was not possible to finalize the political compromise reached on October 17, 2019 between EU and UK towards a final positive vote in UK Parliament. The extension also related to the **General Election** which was now held in the UK on December 12 2019. On substance, we will thus likely see further progress only after the election and assembly of the Parliament probably by early January 2020.

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2. What are the consequences of Brexit for trade marks and designs?

With Brexit, all European Union trademarks and Community Designs will cease to have effect in the UK. This will likewise apply to the equivalents under International Registrations.

Further background can be found in previous newsletters relating to Brexit.

- [Brexit and Data Protection Law](#) ②
- [Update Brexit and trade marks - Madrid System set aside for International Registrations](#) ②
- [Brexit and trade marks - what's next?](#) ②

Mechanisms and comprehensive statutory framework have been set up to reduce negative effects for right owners.

a) European Union Trademarks

All **registrations** not finally expired will be **cloned** on the UK register, by automatic data transfer from EUIPO, without examination, free of charge and fully identical to the EU right.

Pending applications will cause a 9 months' period to re-file in the UK register. Such applications will be identical to the EU right but will be examined by the UK Office and cause standard fees.

b) Registered Community Designs

All registrations not finally expired will be **cloned**. Pending applications cause the same 9 months' **period to re-file**. Applications with deferred publication will be granted a deferred publication in the UK register for 12 months from re-filing.

Unregistered Community Designs will continue as **Continuing Unregistered Design** in the UK for the remaining period of protection. There will be an additional **Supplementary Unregistered Design** but it is limited to the UK in territorial scope.

c) International Registrations

Trademarks and Designs designating the EU will be cloned or cause a right to re-file, both, however, only as a **national UK rights**. By incurring further costs and accepting another examination process, it is possible to replace this national right and reintegrate it into the International Register by **subsequent designation**.

3. Is there immediate need for action?

No. The solutions found shall apply with or without Agreement. But: Clones and Refilings can double the portfolio when the EU level of protection shall be maintained.

It is thus sensible to review the portfolio soon and decide at an early stage which parts of the portfolio are useful or required for the UK. We will send a **full report about relevant IP rights** as represented by us.

Redundant rights can be abandoned (**opt-out**), re-filings can be provisionally instructed (**opt-in**) and relevant priority and renewal deadlines are addressed separately.

No new local representative will be needed. We will be entitled to represent the clones and re-filings at the UK Register which we currently represent at EU level. It is the goal of the United Kingdom to cause no further disruption to right owners in this regard. We are accepted as address for service and will be able to competently represent interests in a number of proceedings.

4. How about further information?

IP-related **contracts, exhaustion** and **channels** of distribution, and other less pressing issues will be subject of further newsletters.



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