

BREXIT AND IP – UPDATE 22 MARCH 2019

The UKIPO has today published an update on changes to registered designs, design rights and international designs if the UK leaves the EU without a deal.

The full document can be [read here](#) but we would draw attention to the following points:

Numbering Format for UK Comparable Design Registrations

IP Holders of EU design registrations are to be issued with comparable UK design registrations automatically and without cost whether there is a withdrawal deal or not. The UKIPO has now announced how it will be numbering the comparable UK registrations. Whilst this is similar to the new numbering system being adopted for UK comparable Trade Marks, there are some differences.

They will take the same number as the EU registration, but be prefixed with UK9. If therefore you have an EU Design Registration No. 000000021-0001, the UK comparable registration which will be created will take the number UK90000000210001.

This information will greatly assist design owners and attorney firms prepare for Brexit in creating records and monitoring deadlines for the comparable rights which are to issue.

Pending EU design applications

Due to the speed at which EU design applications are registered after filing, only a small number of design applications are expected to still be pending at the date the UK leaves the EU.

Following the UK's departure from the EU, these applications will no longer cover the UK however the applicant can apply for an equivalent UK registered design within nine months of the date the UK leaves the EU. The newly filed application will be treated as a UK registered design application and will be examined under UK law.

Pending EU designs application with a deferred publication status

Some EU design cases were filed with a request to defer the publication of the design for up to thirty months. These applications are in order for registration but are not published until the applicant pays the publication fee so the timing of the publication of the design can be controlled by the applicant.

An EU design registration which is still under deferment at the date the UK leaves the EU will be treated as being equivalent to a pending application. In order to protect the same design in the UK, an equivalent UK application must be filed within nine months of the date the UK leaves the EU.

Unlike converting a pending EU design application however, a converted UK design application based on an EU design which is still subject to deferred publication will not be subject to a further examination procedure by the UKIPO as the application will have already been examined by the EUIPO.

EUROPEAN PATENT AND TRADE MARK ATTORNEYS

Paying the publication fees of any such designs before the UK leaves the EU would avoid an equivalent UK design application having to be filed.

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