



Department for  
Business, Energy  
& Industrial Strategy

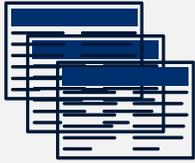
# Preparing for Brexit: Intellectual Property

March 2019



Department for  
Business, Energy  
& Industrial Strategy

# Objectives for this webinar



Share the key information businesses need to prepare for Exit



Provide you with links to additional information on topics covered



Respond to your questions and gather your feedback

# We are here to share information to help you prepare for Exit

## Who we are

We are from the BEIS Business Intelligence and Readiness team

Our objective is to help businesses across sectors prepare for EU Exit

We are attending events across the UK and working with TAs

## Our aims for today



Provide an overview of key changes expected in 'No Deal'



Share sources to find more detailed information



Respond to your questions and gather your feedback

# Agenda for today

## 1 Welcome and Introductions

## 2 Intellectual Property in 'No Deal'

- Copyright
- Trademarks and registered designs
- Unregistered designs
- Patents
- Exhaustion

Thomas Walkden, IPO

30 mins

## 3 Q&A

All panellists

30 mins

Businesses  
need to  
prepare for  
every  
eventuality

Delivering the deal negotiated with the EU is the Government's top priority

However, as a responsible Government, we are preparing for every eventuality

Preparing for 'No Deal' is now an operational priority for the Government

Businesses should make sure they prepare and take action on their own 'No Deal' plans

# Agenda for today

1	Welcome and Introductions	Jamie Wasley, BEIS	2 mins
2	Intellectual Property in 'No Deal' <ul style="list-style-type: none"><li>• Copyright</li><li>• Trademarks and registered designs</li><li>• Unregistered designs</li><li>• Patents</li><li>• Exhaustion</li></ul>	Thomas Walkden, IPO	30 mins
3	Q&A	All panellists	30 mins

# Overview

- The UK will remain party to a number of international treaties and agreements which protect and enforce IP rights entirely independently of our EU membership e.g. WTO TRIPS.
- In any scenario, including a ‘no deal’ scenario, the Government is committed to ensuring that there will be continuity of IP rights for all rights holders and that existing IP rights will not be lost as a result of the UK leaving the EU.
- This includes IP rights protected in the UK based on EU law, such as EU trade marks, registered and unregistered Community designs, supplementary protection certificates and sui generis database rights.
- A ‘no deal’ would bring some changes to the IP framework in the UK which might affect your business e.g. if you currently engage in parallel exports of IP-protected goods to the EEA.
- The government has published technical notices and business guidance to help you understand what the changes are and how they might affect you. These publications are for guidance only and you should consider whether you need separate professional advice before making specific preparations.

# Summary of key policy implications

## **Copyright:**

- UK and EU copyright works will continue to receive reciprocal protection
- Some reciprocal cross-border copyright mechanisms will change or cease

## **Trade Marks and Registered Community Designs:**

- Existing EU rights owned by UK rights-holders will continue to be valid in the EU 27
- Existing EU trade marks (EUTMs) and EU Registered Community Designs (RCDs) will receive new, equivalent UK rights
- UK businesses will still be able to protect new trade marks and designs in the EU through the EU and international systems

## **Unregistered Community Designs:**

- Existing unregistered design rights will still be protected in the UK and EU
- New designs disclosed in the UK after EU Exit will still be protected under current terms in the UK

## **Patents:**

- European patents will still be available in EU MS and UK as part of the non-EU European Patent Convention (EPC)
- UK will retain EU legislation in UK law

# Copyright: How things work today



Copyright protects original artistic, musical, literary, and dramatic works, as well as sound recordings, broadcasts, films, and typographical arrangements.



UK membership of international agreements on copyright ensure reciprocal protection for signatory countries.



EU legislation on copyright goes beyond these international treaties to further harmonise copyright law within the EU and remove barriers to cross-border access to copyright content.



## Some reciprocal cross-border copyright mechanisms between the EU and UK will change or cease



The following cross-border copyright mechanisms will no longer be reciprocated:

- UK-EU portability of online streaming or rental services
- Mutual recognition of sui generis database rights
- The country-of-origin rule for copyright clearance in satellite broadcasts
- The EU-wide copyright exception for orphan works



Cross-border exchange of accessible format copies of copyright works between the UK and Marrakesh Treaty countries may pause until the UK independently ratifies the Treaty

# Trade marks and designs: How things work today



Businesses can register trade marks and designs via national, EU or international systems (Madrid and Hague systems)



UK membership of EU means EU trade marks (EUTMs) and Registered Community Designs (RCDs) are currently valid and enforceable in UK.



International trade marks (Madrid system) and international registered designs (Hague system) can be valid in multiple territories, including UK and EU

# Using EU and international systems for protection after Exit



Existing registered EUTMs and EU RCDs will continue to be valid in EU member states



After the UK leaves the EU, UK businesses will continue to be able to apply for EU trade marks and Registered Community Designs for protection in the EU



UK businesses will continue to have access to the Madrid and Hague systems following EU Exit, when looking to protect their trade marks and registered designs internationally



## Existing EUTMs and EU RCDs will receive new, equivalent UK rights for continued UK protection



Existing registered EUTMs and EU RCDs will receive an equivalent trade mark or design registered in the UK



These equivalent UK trade marks and designs will come into force on exit day



These equivalent UK trade marks and designs will be subject to UK law, regulation and renewal fees (where applicable) going forward



## New and pending EU applications following EU Exit will need to be filed separately with the UK IPO



The UK will temporarily recognise filing dates and claims to earlier priority on currently ongoing EU applications for up to 9 months



Rights holders refiling applications in the UK will need to comply with UK application fees

# Unregistered Community designs: How things work today:



Unregistered Community designs are IP rights governed by EU regulation in the UK and EU



Unregistered designs receive three years of protection in the UK and EU after disclosure



Separate UK design rights protect product shape and configuration for up to 15 years in the UK



## System for protecting unregistered designs remains unchanged in the UK and EU



Existing unregistered Community designs in the EU will still be protected in the EU 27 states



Existing unregistered Community designs in the UK will continue to be protected for their duration with an equivalent right



No additional actions are required by rights holders to ensure continuity of UK protection



New designs disclosed in the UK after EU Exit will be protected under terms similar to the current system



The UK will create a new supplementary unregistered design right



The supplementary unregistered design right will mirror the current unregistered Community design system



Designs disclosed in the UK after EU Exit will still be protected in the UK under this system

# Patents: How things work today



The majority of UK patent law is set by the non-EU European Patent Convention.



EU law provides additional patent protection for pharmaceutical products and agro-chemicals via supplementary protection certificates (SPCs)



## European patents will still be available in EU MS and UK as part of the European Patent Convention



Current European patent system is governed by the non-EU European Patent Convention



EU Exit will not affect the current European patent system and UK membership thereof



UK businesses can still apply to the European Patent Office; existing patents unaffected



Existing patents in the UK will remain in force automatically after EU Exit; no action required



## Supplementary Protection Certificates (SPCs)



EU legislation on SPCs will be retained and supported under UK law, so existing UK SPCs will continue to be valid in the UK.



Right holders will continue to be able to apply for SPC protection in the UK for patented pharmaceutical and plant products.



Existing SPCs in the EU27 held by UK rights holders will be unaffected and UK right holders will still be able to apply for new SPCs in the EU27 under the current system.



# The Unified Patent Court (UPC) and Unitary Patent



If the UPC is not ratified by Germany, no changes are required for UK or EU businesses after EU Exit



The UK will explore staying in the Unified Patent Court and Unitary Patent system but may need to withdraw



If the UK needs to withdraw, businesses will not be able to use the UPC or Unitary Patents to protect rights in the UK



If the UK needs to withdraw, UK businesses would be able to use the UPC and Unitary Patents in relation to protection in the remaining contracting EU states

# Exhaustion: How things work today



The intellectual property framework allows rights holders the exclusive right to control distribution of an IP-protected product.



The exhaustion of IP rights refers to the loss of the right to control the distribution and resale of a product once it has been placed on the market in a specific territory by, or with the permission of, the rights holder.



The UK is currently part of a regional EEA exhaustion regime

# Businesses may need additional rights holder approval to export goods from the UK to the EEA



Goods already put on the market before exit will remain exhausted.



In the short term, IP rights in parallel imports from the EEA into the UK will be exhausted in the UK pending further analysis and consultation.



Businesses wishing to continue to parallel export goods from the UK to the EEA will need to check with owners of rights in the EEA.

# Further information

## Source of material in this section

IPO factsheet on IP and Brexit - Available [here](#)

Patents if there's no Brexit deal - Available [here](#)

Trade marks and designs if there's no Brexit deal - Available [here](#)

Exhaustion of intellectual property rights if there's no Brexit deal - Available [here](#)

Copyright if there's no Brexit deal - Available [here](#)

Business guidance: [Copyright](#), [Trade marks](#), [Patents](#)

European Commission notice to holders of and applicants for European Union trade marks - Available [here](#)

## Additional information beyond this presentation

There may be other issues not addressed in this material

In some areas, policy content is still being developed

Please visit **gov.uk/euexit** for the latest information

## Preparing for Brexit: other webinars in the series

11 March, 11:00 - 12:00	Workforce and People
12 March, 10:00 - 11:00	Regulations and Standards
15 March, 11:00 - 12:00	Digital and Data
18 March, 13:00 - 14:00	Importing and Exporting
19 March, 12:00 - 13:00	Business Legal Requirements
20 March, 11:00 - 12:00	Intellectual Property

After the webinar, send further questions on these and other issues to [sed@beis.gov.uk](mailto:sed@beis.gov.uk)

Please visit [euexit.campaign.gov.uk](http://euexit.campaign.gov.uk) for more information