



ARE Trademark Law Alert: How Brexit Will Impact Your EU and UK Trademark Rights

Author(s): Max Vern , David P. Goldberg,

The Brexit Withdrawal Agreement has been finalized, and the United Kingdom will no longer be a member of the European Union as of 11:00 p.m. GMT on January 31, 2020. That said, negotiations on a trade agreement between the UK and EU will continue through the end of the year. During this time, EU Trademark Registrations will still be in force in the UK.

Although EU Trademark Registrations will no longer cover the UK as of January 1, 2021, there are already arrangements in place to allow the owners of such registrations to keep their trademark rights in the UK (including their priority dates) by providing them with corresponding national UK Trademark Registrations automatically and free of government charge.

Similarly, the owners of EU Trademark Applications that are pending as of January 1, 2021 will also be able to keep their priority dates and obtain corresponding national UK Trademark Applications. However, the application “cloning” process will not be automatic, will involve the payment of a government fee, and must be started by September 30, 2021.

Because EU Trademark Applications typically take 5-6 months to be granted, provided they do not encounter any Office Actions or Oppositions, there may be no need to consider filing duplicate UK Applications for EU Trademark Applications filed before June 2020. But if an EU Trademark Application is likely to give rise to an Office Action or Opposition, or if an EU Trademark Application is filed after May 2020, filing a duplicate UK Trademark Application would be generally recommended.

We will continue to monitor this topic and will issue further ARE Trademark Law Alerts as developments occur. In the meantime, please feel free to contact us if you have specific questions about how these developments may affect your trademark rights.

*Max Vern is a partner and David P. Goldberg is an associate at Amster, Rothstein & Ebenstein LLP. Their practice specializes in intellectual property issues, including obtaining and enforcing trademark and other intellectual property rights. They may be reached at mvern@arelaw.com and dgoldberg@arelaw.com.