



IP Alert: Brexit Plays Deal, No Deal, or Delay — Trademark Rights Will Remain Protected

March 13, 2019

With Brexit looming, uncertainty is everywhere in the United Kingdom and European Union. However, trademark law is one area where there is no need for alarm, as EU trademark owners will be protected in the UK regardless of when — or if — the UK exits the EU.

The UK is scheduled to leave the EU on **March 29, 2019**. The UK and EU had negotiated a Withdrawal Agreement to transition out of the EU (the "Deal" scenario), but on January 16 and again on March 12, the UK Parliament rejected the negotiated withdrawal. UK Prime Minister Theresa May has stated that the UK will leave the EU even without a negotiated agreement (the "No Deal" scenario). With the deadline to leave the EU only two weeks away, pressure is intensifying for a delay of some months, and possibly a second referendum (the "Delay" scenario).

Under the Withdrawal Agreement, the UK Intellectual Property Office (UKIPO) and EU Intellectual Property Office (EUIPO) had negotiated a transition period to provide continued protection in the UK for all existing registered EU trademarks through December 31, 2020, during which time UK trademark rights would be granted for all EU trademarks, **automatically and free-of-charge**. If a "Deal" is eventually reached, this will be the best outcome for trademark owners.

If Brexit occurs with "No Deal," the UKIPO has assured protection for EU trademarks within the UK, and the UKIPO will provide a process for the conversion of existing EU registrations into UK registrations. This process will not be automatic and will likely incur legal fees and filing fees to obtain the UK equivalent registration. For EU applications pending as of March 29, 2019, there will be a special "priority" period of nine months for the filing of a UK national application claiming the priority filing date of the EU application. Applicants will be required to use standard UK application processes and pay the requisite fees.

If a "Delay" occurs, all decisions will be pushed forward to a future Deal/No Deal (or perhaps even no Brexit) timeline.

Regardless of the outcome for Brexit, there will be time in 2019 to take action to make sure that your trademarks are protected in the UK. Keep calm and carry on!



For more information or questions, contact a member of the Intellectual Property, Technology, and Privacy Practice Group at Gray Plant Mooty.