

Intellectual property and the transition period

The UK and EU have ratified the Withdrawal Agreement. This allows the UK to depart the EU on 31 January 2020 and for the transition period (1 February 2020 to 31 December 2020) to begin.

During this time, EU law will continue to operate as it does now in the UK. The Intellectual Property (IP) system will continue as it is until 31 December 2020.

There will be no disruption to IPO services or changes to the UK IP system during this transition period. The IPO will convert almost 1.4 million EU trade marks and 700,000 EU designs to comparable UK rights at the end of the transition period. These will come into effect on 1 January 2021.

The arrangements in the IP section of the Withdrawal Agreement take effect at the end of the transition period. These arrangements provide legal certainty and protect the interests of rightsholders and users of the IP framework.

The Withdrawal Agreement ensures continued protection of existing EU-level IP rights in the UK after the end of the transition period.

This will ensure existing UK IP rights can be managed appropriately in line with existing domestic arrangements.

EU trade marks

The UK will remain part of the EU trade mark system throughout the transition period that ends on 31 December 2020. EU Trade Marks (EUTM) will continue to extend to the UK during this time.

We will not create comparable UK trade mark rights on 31 January 2020. These rights will be created at the end of the transition period under the terms of the Withdrawal Agreement.

Businesses, organisations or individuals that have applications for an EUTM which are ongoing at the end of the transition period will have a period of nine months from the end of the transition period to apply in the UK for the same protections.

[EU trademark protection and comparable UK trademarks](#)

The UK will remain part of the EU registered community design system throughout the transition period. Registered community designs (RCD) will continue to extend to the UK during this time. We will not create comparable UK designs on 31 January 2020. These rights will be created at the end of the transition period under the terms of the Withdrawal Agreement.

Businesses, organisations or individuals that have applications for an RCD

which are ongoing at the end of the transition period will have a period of nine months from the end of the transition period to apply in the UK for the same protections.

[Changes to EU and international designs and trade mark protection after the transition period](#)

Unregistered designs

The UK will remain part of the EU unregistered community design system throughout the transition period. This means that two- and three-dimensional designs (including, for example, clothing designs and patterns) disclosed in the UK or an EU Member State can be automatically protected in both territories as unregistered Community designs. This right provides three years of protection from copying.

In accordance with the Withdrawal Agreement, unregistered community designs arising before the end of the transition period will continue to be protected in the UK for the remainder of their three-year term.

Designs disclosed in the UK after the end of the transition period may be protected in the UK through the supplementary unregistered design, which will protect two- and three-dimensional designs for three years.

[Changes to unregistered designs after the transition period](#)

International registrations designating the European Union

During the transition period, international registrations for trade marks and designs protected via the Madrid and Hague systems which designate the European Union will continue to extend to the UK.

In accordance with the terms of the Withdrawal Agreement, international registrations for trade marks and designs that have been protected before the end of the transition period will continue to be protected in the UK after 31 December 2020. We are continuing to work with the World Intellectual Property Organization (WIPO) on the mechanism to ensure continued protection.

[Changes to international trade mark registration after the transition period](#)

Rights of representation

During the transition period, UK legal representatives will continue to have the right to represent clients before the EU Intellectual Property Office (EUIPO).

The Withdrawal Agreement (WA) ensures that UK legal representatives can continue to represent their clients before the EUIPO in cases that are ongoing at the end of the transition period.

The WA also states that the UK will not amend address for service rules for the comparable UK rights for a period of three years after the end of the transition period.

Patents

You can apply for a European patent through us or direct to the European Patent Office (EPO) to protect your patent in more than 30 countries in Europe, using the (non-EU) European Patent Convention (EPC).

As the EPO is not an EU agency, leaving the EU does not affect the current European patent system. Existing European patents covering the UK are also unaffected.

European patent attorneys based in the UK continue to be able to represent applicants before the EPO; see the news story on the [EPO website](#).

Supplementary Protection Certificates

During the transition period, businesses can continue to apply for and be granted SPCs for patented pharmaceutical and plant protection products using the current system.

The current SPC legal framework in the UK is maintained during the transition period, and existing UK SPCs granted under that system continue to be valid.

SPCs are not granted as EU-wide rights, but rather as national rights. It was therefore not necessary for the UK and the EU to agree the creation of a comparable right to ensure continued protection of existing SPCs in the UK at the end of the transition period.

Instead, the Withdrawal Agreement ensures that SPC applications which are pending at the end of the transition period will be examined under the current framework. Any SPC which is granted based on those applications will provide the same protection as existing SPCs.

[Changes to SPC and patent law after the transition period](#)

Exhaustion of rights

Currently, exhaustion of IP rights occurs in the UK when an IP-protected good is placed on the market anywhere in the EEA, by or with the right holder's permission.

This means that rights holders (such as the owner of a brand) may not prevent the movement of those goods within the EEA. These goods are known as parallel goods, which are genuine goods (that is, they are not counterfeit).

In the Withdrawal Agreement, the EU and UK have agreed that IP rights exhausted in the EU and the UK before the end of the transition period shall remain exhausted in both areas.

The agreement ensures legal certainty and continuity during the transition period and provides continuity in the immediate term for businesses and consumers.

[Exhaustion of IP rights and parallel trade after the transition period](#)

Copyright

Continued reciprocal protection for copyright works between the UK and the EU is assured by the international treaties on copyright. This is independent of our relationship with the EU so is not addressed in the Withdrawal Agreement.

Current cross-border copyright arrangements which are unique to EU member states (such as [cross-border portability of online content services](#) and [reciprocal protection for databases](#)) will continue to apply to the UK until the end of the transition period.

The status of these cross-border arrangements after the end of the transition period will depend on the future relationship between the UK and EU.

The Withdrawal Agreement ensures any database rights that exist in the EU and UK at the end of the transition period will continue to be recognised in both territories for the remainder of their term.

[Changes to copyright law after the transition period](#)