

Post Brexit implications of UK IP Rights



1. Research & Development

Funding:

- UK has committed to research funding of £22 billion per year by 2024/25
- UK researchers can participate in Horizon Europe, subject to agreement on UK's financial contribution

Talent:

- New points based immigration system applies
- An Office for Talent is established to smooth the visa application process
- A new Global Talent visa will allow leading overseas scientists and researchers to work in the UK



2. Protection

Technology:

- The existing European patent system remains unaffected
- The EU database right no longer applies. Databases remain protected through copyright
- When in force, the EU unitary patent system may help UK businesses protect technology in EU countries

Brands:

- A UK equivalent to an EU trade mark is automatically granted
- An application is required for a UK equivalent to any pending EU trade mark application

Designs:

- A UK equivalent to a registered Community design is automatically granted
- An application is required for UK equivalent to any pending registered Community design application
- A new supplementary unregistered design right will automatically protect the appearance of products



3. Regulation

Registration:

- Pharmaceutical products and medical devices must be registered with the MHRA

Responsible Person:

- A UK Responsible Person must be appointed by EU/oversees manufacturers of medicines, medical devices and other regulated goods

Marking:

- The new UKCA mark must be applied to certain goods marketed in Great Britain. The UK(NI) mark is required for goods marketed in Northern Ireland
- The CE mark is also required for regulated goods intended for the EU market



4. Commercialisation

Manufacturing:

- The EU-UK trade deal ensures tariff free imports. A new VAT import regime applies
- Enhanced customs declarations and checks may slightly delay supplies of materials and components

Export:

- The EU-UK deal ensures tariff free exports to the EU. Enhanced customs declarations and checks may slightly delay export process

Licensing:

- Licensing arrangements with EU manufacturers or distributors may benefit a commercialisation strategy within the EU



5. Enforcement

Representation:

- An EU representative must be appointed in trade mark and design proceedings before the EU IPO

CJEU decisions:

- CJEU decisions made after 1 January 2021 are not binding on the UK

Unitary Patent Court:

- When in force, UK businesses may face litigation within the new EU Unified Patent Court, if their actions within EU countries infringe existing rights