

## SAFEGUARD YOUR TRADE MARK RIGHTS

We examine why businesses should act now to protect their UK trade marks in a post Brexit environment.

The UK Government has still not reached a final agreement over the terms of its exit from the EU, which is scheduled to take place on 29 March 2019. Presently, it is talking up the prospect of a 'no-deal' scenario, and asking businesses to prepare for such an eventuality.

The main stumbling block in the Brexit negotiations is that "nothing is agreed until everything is agreed" and there are some significant issues which are yet to be determined. Even if a deal between the UK Government and the EU is reached, it is looking more and more uncertain that the UK Government will be able to get that deal approved by the UK Parliament. Without this backing, the UK will fall out of the EU without any deal.

So, what does that mean for brand owners?

Under the Draft Withdrawal Agreement, the position is as follows:

- Holders of EU trade marks registered or granted before the end of the transition period will become holders of comparable UK rights without the need for any re-examination. This will be an automatic process and no fees will be payable; and
- A priority right in the UK for six months from the end of the transition period for pending EU trade mark applications. This seems to suggest that any pending applications at the expiry of the transition period will need to be re-filed in the UK. There may well be an additional fee for this service.

For further information regarding the Draft Withdrawal Agreement, please see our previous article: <https://www.footanstey.com/bulletins/3730-withdrawal-agreement-on-the-uk-s-withdrawal-from-the-eu>.

With a no deal scenario, there are presently no arrangements for splitting out the UK rights from the EU rights by creating a new right.

At this moment in time there is sufficient uncertainty, regarding which way the Brexit negotiations will go, to warrant that brand owners should now take some time to consider if it would be prudent to file their brands as standalone UK trade marks. This should avoid any transitional issues caused by Brexit. As part of their brand protection strategy, we have seen that many of our clients are now taking steps to file both UK and EU trade marks at the same time. This is the only way to guarantee uninterrupted protection of UK trade marks from 29 March 2019 onwards.

Charlene Nelson, Chartered Trade Mark Attorney, said *"Given all the uncertainty surrounding the transitional provisions relating to UK trade marks, and, in light of the wave of applications now being received by the UK IPO, we are advising our clients that it is worth taking action to file standalone UK trade marks to ensure that their UK applications are granted well before 29 March 2019 and avoid being left at the back of the queue."*

For further information about registering your trade mark, contact Chartered Trade Mark Attorney Charlene Nelson ([charlene.nelson@footanstey.com](mailto:charlene.nelson@footanstey.com)).