

What will the impact be on IP in a post-Brexit world?

What could happen to IP rights after Brexit – and what should you do about it?

Option	Pros	Cons	Action
EU rights cover the UK	Guarantee protection for no cost	Unlikely to happen	Lobby for outcome
EU rights registered as UK rights provided owner opts in	No additional cost Easy provided opt in is straightforward	Conversion of over one million marks may lead to significant delays Problems proving TM use if mark has not been used in the UK (or only used in the UK)	Lobby for outcome File separate UK right now
EU rights registered as UK rights provided owner opts in and pays a fee	Avoids re-examination of rights Payment could result in a faster transition due to decreased volume	Additional cost Conversion could result in delays and uncertainty over protection	Review portfolio and identify EU marks that are used in UK but not protected by separate UK right File separate UK right now
Any EU rights are re-examined before being registered as UK rights and are subject to payment of a fee	Guarantee protection of UK right	Examination could result in refusal and complications	Review portfolio and identify EU marks that are used in UK but not protected by separate UK right File separate UK right now
Pan EU licence agreements and judgments no longer cover the UK	Gives opportunity to licence rights in UK separately in line with local market conditions EU judgments concerning non UK rights will no longer restrict UK use	Increase in complexity when licensing and protecting rights in Europe Lucrative sub-licences may be renegotiated	Review licences now to identify issues and develop strategy for amendment
No more EU unregistered design right	More certainty to operate in UK without unknown EU unregistered rights being asserted	Risk of significant damage to fashion industries which use innovative designs with fast product turnaround particularly surface decoration	Review key designs after nine months Register designs or rely on UK unregistered design right/copyright
Parallel goods cannot be imported from anywhere in the EEA	Brands have more control over pricing in the UK and can prevent cheap imports from the EEA	There will be incompatibility issues with longstanding distribution agreements If prices are increased too much the law may be changed to global exhaustion	Review distribution agreements and UK pricing strategy
Lesser known rights such as Protected Designations of Origin and their close cousins, Protected Geographical Indications will no longer cover the UK	Gives more flexibility when naming products in the UK e.g. "English champagne" etc	Loss of reciprocal protection in the EU May lead to consumer confusion	Consider whether you rely on PGIs and PDOs – any agricultural produce may be protected