



Department for  
Business, Energy  
& Industrial Strategy

# EU Exit Business Readiness Forum: Focus on Employing EU Citizens and Intellectual Property

Thursday 21 February

Material reflects Government policy as of February 2019



Department for  
Business, Energy  
& Industrial Strategy

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# How things work today



Freedom of Movement (no visa restrictions for EU citizens) vs. Non-EU/EEA migration system



EU citizens and their family members can move, live and work within the EU without applying for permission



Non-EU nationals need permission to enter, work and study in the UK

# Employing EU citizens: What is changing



In a no deal scenario, there will be changes on 30 March 2019



EU Citizens already in the UK will be able to apply to the EU Settlement Scheme to continue living, working and studying in the UK



From 30 March 2019 in a no deal scenario, newly arriving EU/EEA/Swiss citizens will still be able to enter the UK to visit, work and study for up to 3 months, without requiring a visa



Newly arriving EU/EEA/Swiss citizens will need to apply for Temporary Leave to Remain (from within the UK), if they wish to stay, work and study in the UK beyond 3 months



# EU Citizens can apply for settled/pre-settled status



Eligibility for settled status generally requires 5 years' continuous residence in the UK



Those with less than 5 years' continuous residence will be eligible for pre-settled status



Test phase currently open - scheme fully open by 30 March 2019; **Deadline for application is 31 December 2020 in no deal**



The Scheme will be free when its fully live, but currently there is a £65 for adults & £32.50 for under 16s during the pilot stage. These costs will be refunded



# Newly arrived EU citizens will be able to apply for European Temporary Leave to Remain



This will enable EU/EEA/Swiss citizens to remain in the UK for an additional 36 months after their initial 3 month visa-free stay. They must apply from within the UK.



European Temporary Leave to Remain is not extendable and will not guarantee a route to settlement in the UK.



EU citizens who want to stay in the UK beyond 36 months will need to make an application to, and qualify under, the new skills-based immigration system, which will begin from 2021.



In a deal or no deal scenario, employers will continue to conduct the same right to work checks they do currently, until 2021.

# Further advice and guidance on action to take

## Source of material in this section

EU Settlement Scheme for EU citizens and their families - [here](#)

EU citizens' rights and Brexit - [here](#)

European Temporary Leave to Remain - [here](#)

## Additional information beyond this presentation

There may be other issues not addressed in this material

In some areas, further information will be made available on GOV.UK

Please visit [gov.uk/euexit](https://www.gov.uk/euexit) for the latest information

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# Five topics on Intellectual Property

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**Patents**

**Exhaustion**

# Copyright: How things work today



Copyright protects original artistic, musical, literary, and dramatic works, as well as sound recordings, broadcasts, films, and typographical arrangements.



UK membership of international agreements on copyright ensure reciprocal protection for signatory countries.



EU Directives on copyright go beyond these international treaties to further harmonise copyright law within the EU and remove barriers to cross-border access to copyright content.

# Copyright: what is staying the same



UK and EU copyright works will  
still receive reciprocal protection



## UK and EU copyright works will continue to receive reciprocal protection



The UK will continue to be a member of international copyright treaties and agreements

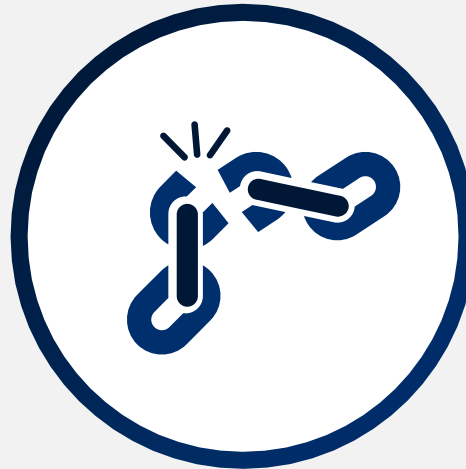


Reciprocal protection of UK and EU copyright works (e.g. books, films and music) will not change after EU Exit because it is underpinned by international treaties



Both new and existing UK copyright works will continue to be protected internationally following EU Exit

# Copyright: what could change



Some reciprocal cross-border  
copyright mechanisms will  
change



## Some reciprocal cross-border copyright mechanisms between the EU and UK will change or cease



The following cross-border copyright mechanisms will no longer be reciprocated:

- UK-EU portability of online streaming or rental services
- Mutual recognition of sui generis database rights
- The country-of-origin rule for copyright clearance in satellite broadcasts
- The EU-wide copyright exception for orphan works



Cross-border exchange of accessible format copies of copyright works between the UK and Marrakesh Treaty countries may pause until the UK independently ratifies the Treaty

# Five topics on Intellectual Property

Copyright

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# Trade marks and designs: How things work today



Businesses can register trade marks and designs in national, EU or international systems (Madrid and Hague systems)



UK membership of EU means EU trade marks (EUTMs) and Registered Community Designs (RCDs) are currently valid and enforceable in UK.



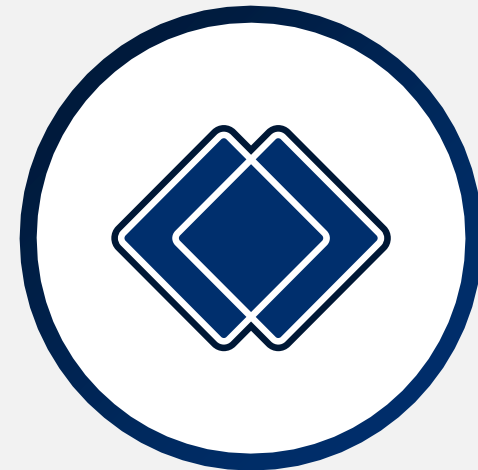
International trade marks (Madrid system) and international registered designs (Hague system) are valid in multiple territories, including UK and EU



# Trade marks and designs: what is staying the same



UK-owned EU and international trade marks and registered designs will still be valid in the EU



UK business can still protect new trade marks and designs in the EU through the EU and international systems



## Existing international and EU rights owned by UK right holders will continue to be valid in the EU



Existing registered EUTMs and EU RCDs will continue to be valid in EU member states



The Madrid and Hague systems allow members to protect rights in multiple territories including the EU, with one application and fee



The UK will continue to have access to the Madrid and Hague systems following EU Exit



For new rights, UK businesses will continue to be able to use EU and international systems for protection in the EU and internationally

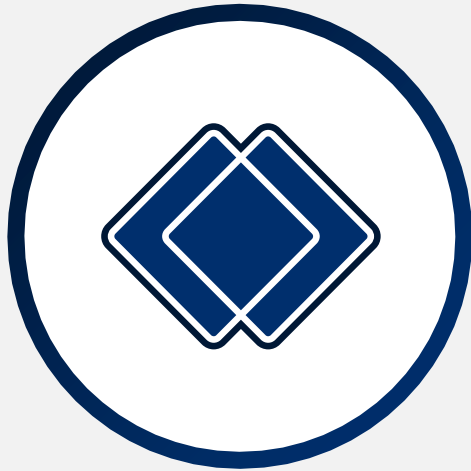


After the UK leaves the EU, UK businesses will continue to be able to apply for EU trade marks and Registered Community Designs for protection in the EU



UK businesses will also continue to have access to the Madrid and Hague systems when looking to protect their trade marks and registered designs internationally (incl. UK)

# Trade marks and registered designs: what will change?



Existing EUTMs and EU RCDs will receive new, equivalent UK rights



New and pending EU applications will need to file separately with the UK IPO



## Existing EUTMs and EU RCDs will receive new, equivalent UK rights for continued UK protection



Existing registered EUTMs and EU RCDs will receive an equivalent trade mark or design registered in the UK



These equivalent UK trade marks and designs will come into force on exit day



These equivalent UK trade marks and designs will be subject to UK law, regulation and renewal fees (where applicable) going forward



## New and pending EU applications following EU Exit will need to be filed separately with the UK IPO



The UK will temporarily recognise filing dates and claims to earlier priority on currently ongoing EU applications for up to 9 months



Rights holders refiling applications in the UK will need to comply with UK application fees

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# Unregistered Community Designs: How things work today:



Unregistered Community designs are IP rights governed by EU regulation in the UK and EU



Unregistered designs receive three years of protection in the UK and EU after disclosure



Separate UK design rights protect product shape and configuration for up to 15 years in the UK



# Unregistered Community Designs: what is staying the same?



Existing design rights will still be protected in the UK and EU



New designs disclosed in the UK after EU Exit will still be protected under current terms in the UK



## System for protecting unregistered designs remains unchanged in the UK and EU



Existing unregistered Community designs in the EU will still be protected in the EU 27 states



Existing unregistered Community designs in the UK will continue to be protected for their duration with an equivalent right



No additional actions are required by right holders to ensure continuity of UK protection



New designs disclosed in the UK after EU Exit will be protected under terms similar to the current system



The UK will create a new supplementary unregistered design right



The supplementary unregistered design right will mirror the current unregistered Community design system



Designs disclosed in the UK after EU Exit will still be protected in the UK under this system

# Patents: How things work today



Majority of UK patent law is set by the European Patent Convention, independent from EU law



European patent attorneys based in the UK can represent applicants before the EPO. The UK remains a member of the EPO.



EU law provides additional patent protection for pharmaceutical products and agro-chemicals via Supplementary Protection Certificates (SPCs)

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# Patents: what is staying the same



European patents will still be granted covering UK, EU MS and beyond



UK attorneys still able to represent at EPO



UK will retain EU legislation in UK law



## European patents will still be available in EU MS and UK as part of the European Patent Convention (EPC)



Current European patent system is governed by the non-EU European Patent Convention



EU Exit will not affect the current European patent system and UK membership thereof



UK businesses can still apply to the European Patent Office; existing patents unaffected



Existing patents in the UK will remain in force automatically after EU Exit; no action required



## The UK will retain EU legislation in equivalent UK law and UK patent regime



EU legislation on patents and SPCs will be retained and supported under UK law



Existing patent systems, conditions and requirements will remain in place in the UK



The UK's Supplementary Protection Certificate regime will continue, under the retained EU laws



Existing UK Supplementary Protection Certificates will continue to be valid in the UK





## Supplementary Protection Certificates



While the UK remains a full member of the EU, businesses can continue to apply for and be granted Supplementary Protection Certificates (SPCs) for patented pharmaceutical and plant protection products using the current SPC system. Existing UK SPCs granted under that system continue to be valid.



Once the UK leaves the EU, UK businesses will still be able to apply for SPCs in all remaining EU Member States under the existing system. And they will be able to apply for a UK SPC under the retained EU laws.



# The Unified Patent Court (UPC) and Unitary Patent



If the UPC is not ratified by Germany, no changes are required for UK or EU businesses after EU Exit



The UK will explore staying in the Unified Patent Court and Unitary Patent system but may need to withdraw



If the UK needs to withdraw, businesses will not be able to use the UPC or Unitary Patents to protect rights in the UK



If the UK needs to withdraw, UK businesses would be able to use the UPC and Unitary Patents in relation to the remaining contracting EU states

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# Exhaustion: How things work today



IP framework allows rights holders the exclusive right to control distribution of an IP-protected product.



The exhaustion of IP rights refers to the loss of the right to control the distribution and resale of a product once it has been placed on the market in a specific territory by, or with the permission of, the rights holder.



The UK is currently part of a regional EEA exhaustion regime



## Businesses may need additional rights holder approval to export goods from the UK to the EEA



Goods already put on the market before exit will remain exhausted.



In the short term, IP rights in parallel imports from the EEA into the UK will be exhausted in the UK pending further analysis and consultation.



Businesses wishing to continue to parallel export goods from the UK to the EEA will need to check with owners of rights in the EEA.

# Further information

## Source of material in this section

IPO factsheet on IP and Brexit - Available [here](#)

Patents if there's no Brexit deal - Available [here](#)

Trade marks and designs if there's no Brexit deal - Available [here](#)

Exhaustion of intellectual property rights if there's no Brexit deal - Available [here](#)

Changes to copyright law in the event of no deal - Available [here](#)

Copyright if there's no Brexit deal - Available [here](#)

Business guidance will be published shortly.

European Commission notice to holders of and applicants for European Union trade marks - Available [here](#)

## Additional information beyond this presentation

There may be other issues not addressed in this material

In some areas, policy content is still being developed

Please visit **gov.uk/euexit** for the latest information

You may have further questions on these and other issues. Please visit [gov.uk/euexit](https://gov.uk/euexit) for more information

If you have questions about the EU Exit Business Readiness forum, please contact [sed@beis.gov.uk](mailto:sed@beis.gov.uk)