

How Brexit Affects You and Your Intellectual Property

June 24, 2016

As you may have heard, the United Kingdom voted this week to leave the European Union. This has left many wondering what impact Brexit will have on their intellectual property rights in the UK and the European Union. In the short term, the answer is none.

The most important thing to understand is that there is no immediate loss of rights and no immediate action which needs to be taken. The referendum has no legal effect yet, and the EU treaty provides the UK two years to negotiate the terms of its departure. In the meantime, it's "business as usual."

The following is a brief outline of the current status:

EU (Community) Trademarks

At present, a trademark may be protected in the UK either by a national UK or an EUTM (European Trademark, formerly known as a CTM) registration, both of which may be obtained directly or via an International Registration under the Madrid protocol.

Because EUTM registrations would no longer cover the UK, many expect there to be a transitional arrangement governing existing EUTM registrations and their effect in the UK. Ultimately, it is likely that there will be an agreement to either extend EUTM registrations automatically to the UK or to require some sort of re-registration process which will allow conversion of the EUTM right to a UK national registration.

European Patents/PCT

The European Patent Office operates independently and is not affiliated with the EU, so European Patents will not be affected by Brexit. The same applies to the PCT system and European Patent applications derived from PCT applications.

Unitary Patent/Unified Patent Court

The Unified Patent Court has not yet come into effect and cannot do so until the agreement has been ratified by 13 EU member states, including the UK as one of the three countries with the largest number of European Patent designations in force. Because the UPC is formed under EU law, the UK's involvement will have to be renegotiated.

If you have questions about Brexit and its effect on your intellectual property, please reach out to a Miller Canfield attorney.

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