



Recordals: Get ready for Brexit

Owners of EUTMs and RCDs should review ownership details now

The end of the Brexit transition period is fast approaching and bringing with it some important changes for owners of EU Trade Marks (EUTMs) and Registered Community Designs (RCDs), including the introduction of comparable UK registrations – UK trade marks (UKTMs) and UK registered designs (UKRDs).

What's changing?

At the end of the transition period on 31st December 2020, the UK will leave the pan-EU registered IP systems: namely the EUTM and RCD. This means that from 1 January 2021 EUTMs and RCDs will no longer cover the UK. To compensate for this, owners of registered EUTMs and RCDs will automatically be given a comparable UK registration free of charge. The comparable UK registration will have exactly the same details as the EU rights, including priority, filing, grant, and renewal dates. In effect a free one-off replacement of the UK part of existing EUTMs and RCDs.

For pending EUTM and RCD applications, no equivalent UK right will be automatically created. Instead, rights holders will need to apply to the UKIPO for a comparable UK right. They can retain the benefit of the earlier EUTM or RCD dates if they apply for a comparable UK right during the nine-month grace period that starts after the end of the transition period. Applications made after the end of the grace period will get a new filing date rather than the original EUTM/RCD one.

A free IP right – that sounds great. What's the catch?

The comparable UK registration created on 1st January 2021 will be registered in the name of the current registered owner at the EUIPO of the equivalent EUTM or RCD as at that date. If the legal owner is not the same as the registered owner, for example if an EUTM has been assigned to a new owner but their details have not yet been registered at the EUIPO, then the UK registration will be created in the name of the old owner and any changes will need to be recorded both at the UKIPO and EUIPO (i.e. requiring additional work and bureaucracy to file two recordal requests rather than one).

If the UKIPO register is out of date, it could affect the recovery of legal costs if the new owner seeks to enforce their rights in the UK before their ownership is registered at the UKIPO. Even if they are not looking to enforce their rights in the short-term, it is still worth keeping the register up-to-date – we often see cases where assignments have gone unrecorded for some years and when it comes to updating the registers, the relevant assignment documents have been lost and/or the original owners are no longer available to sign additional documentation (see [here](#) for more information on the benefits of recording changes in legal ownership of registered IP rights).



Licences and security interests registered against an EUTM or RCD will be deemed to apply to the comparable UK registration unless the parties agree otherwise (and it may be worth checking the wording of any relevant licences security interests to see if these need to be updated to apply to both the EU and the UK). However, such interests registered at the EUIPO will not be automatically ported over to the UK register and will therefore need re-recording at the UKIPO.

What should I be doing now?

Check that the ownership details currently on the registers for your EUTMs and RCDs are correct. Changes of legal ownership of EUTMs or RCDs registered at the EUIPO before the end of the transition period will be automatically ported over to the UKIPO register when the comparable UK registrations are created. Now is the time to record any changes at the EUIPO so that the registers are brought up-to-date in good time before the end of the transition period on 31 December 2020.

What should I be doing after 31 December 2020?

If you are a licensee or holder of a security interest over EUTMs or RCDs, in order to maximise your protection, record your interests on the UK register in respect of the comparable UK right as soon as possible after it comes into existence on 1 January 2021.

If you have any questions, please contact our IP Transactions team who can help you with recording changes to ownership details both at the EUIPO against EUTMs and RCDs and at the UKIPO against comparable UK registrations

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Need advice?

Carpmaels & Ransford is a leading European IP firm based in London. For more information about our firm and our practice, please visit our website at: www.carpmaels.com.

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