



## Brexit & your trade marks – some practical questions answered

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You will no doubt have received many updates from IP law firms discussing the potentially new landscape for IP rights in the UK and EU in the longer term. Some are long, some short, some academic, but maybe not all practical.

The following briefing answers some of the more practical questions and concerns around managing your trade mark portfolio in light of Brexit. With change comes opportunity, and we at HGF are here to help you maximise that opportunity. We do not claim to know all that will transpire in the next few years come Brexit, no one does, but we hope these initial practical pointers below will help you along the way.

As a European firm of intellectual property specialists with locations in both the UK and mainland Europe, HGF will continue to offer a fully integrated team of professionals in the EU covering not only trade marks, but patents, designs, contentious and non-contentious IP law.

Best regards

A handwritten signature in dark ink, appearing to read 'PA Sanderson'.

**Paul Sanderson**  
CEO

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## **Do I need to take any action with my EUTMs now?**

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No – you don't need to take any immediate action regarding your EUTM portfolio. In the coming months and years there will be changes to address the UK's departure from the EU; new processes will be put in place to continue your trade mark rights without any loss. HGF shall be keeping you updated and informed as developments unfold and will be on hand to advise and help you plan your European trade mark strategy now and in the future, both before and after Brexit.

## **When will Brexit directly impact my trade mark portfolio?**

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Probably not for two to three years at least and possibly longer. National UK trade mark rights will not be affected at all by Brexit. So above all you have time to reflect and make decisions that are best for your trade marks. HGF is on hand to advise you.

It will be business as usual for some time, as it is likely to be several years before the UK officially exits from the EU. Once the UK triggers "Article 50" of the Treaty of Lisbon this formally signals its intention to start an extendable two year period of negotiation to withdraw from the EU. At present there is no clarity on when this might happen and until the end of that period the UK remains a member of the EU with no change to any EU IP rights, including trade marks.

## **Should I change my trade mark filing strategy now?**

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In the main the answer to this question is no. We have seen recommendations to file both UK and EUTM applications for the same mark as a matter of course. We are not recommending you file unnecessary applications; you should only file separate applications, if there is a reason to do so.

Transitional provisions will almost certainly be put in place to enable the cost effective conversion of existing EUTM registrations and pending EUTM applications, with no loss of priority, filing or seniority claim dates, into UK national applications in the longer term, resulting in no loss of rights.

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## **What about renewals and seniority claims relating to UK and EUTMs?**

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Although making seniority claims from UK trade mark registrations in relation to EUTM registrations resulted in considerable renewal cost savings, we would advise not go down that route at this point.

If separate UK and EUTMs exist for the same mark, it may be advisable to renew and maintain them separately from now on.

As noted above, there will undoubtedly be transitional provisions in place to convert existing EUTM registrations into UK trade marks.

## **What about trade mark assignments, licences and agreements covering the EU?**

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Any new agreements containing clauses which regulate the ownership and use of trade marks in the EU should consider the territorial scope of the agreement, in particular, how the EU is defined at the date of the agreement. Parties to existing agreements may want to review terms once the situation regarding EUTM conversion has been established – HGF can assist you with the review of any EU trade mark agreements.

## **Can HGF continue to act as my EUIPO trade mark representative?**

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Yes. HGF attorneys EUIPO rights of representation have not changed in any way. Until such time that the UK formally leaves the EU, HGF attorneys will continue to have exactly the same rights of representation as they do at present. Even after formal EU exit, HGF will continue to including qualified European Trade Mark Attorneys with full, unfettered rights of representation - there will be no break in service or representation at any point in time.

If you have any questions or concerns about IP Rights in the UK outside the EU, or would like further advice on this matter, please contact your usual HGF attorney or David Potter, Head of Trade Marks at HGF on [dpotter@hgf.com](mailto:dpotter@hgf.com) or call +44 (113) 233 0100