

ES WHITE PAPER

# Brexit

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## **EXECUTIVE SUMMARY**

With the exit of UK from the EU ("Brexit") having faced many postponements and delays, the current transitional period will expire on 31 December 2020 and shall not be prolonged. Thus, on 1 January 2021, the current Withdrawal Agreement between the UK and the EU has no effect anymore and both will go separate ways.

This White Paper informs about the implications on intellectual property rights which were granted on an EU wide level.



## **INTRODUCTION: BREXIT AND IP RIGHTS IN THE EU AND THE UK**

The United Kingdom of Great Britain and Northern Ireland was a member of the European Union for more than 46 years. Following an intensely debated referendum on 23 June 2016, the exit of the UK was prepared for 29 March 2019, but was deferred several times, until finally on 31 January 2020 the UK was no longer a member state of the EU. Due to a Withdrawal Agreement, many aspects of the former relationship were prolonged until the end of a jointly agreed transition period, which will last until 31 December 2020.

Currently, in October 2020, both sides are negotiating a treaty which shall govern their future relationship. If no such treaty is ratified until 31 December 2020, there will be a so-called “hard Brexit” with no bilateral agreement on aspects such as tariffs, trade, immigration and many others.

In the field of intellectual property rights, the EU legislator had created trademark and design rights which automatically enjoy protection in the entire EU, that is, in all member states. These right systems were created in order to be able to hold one unitary right in the entire internal market of the EU, thus making it easier and more cost efficient to hold such rights than national rights in every member state separately.

Many persons, companies and institutions relied on such EU wide rights only or mainly. The exit of the UK now has the implication that such rights will cease to have effect in the UK with the beginning of 2021.

The UK is well aware that the EU rights are essential and important for their holders. Therefore, it was announced at an early stage that corresponding UK rights shall automatically be created and come into force when the UK leaves the EU. As the protection of the EU rights was continued in the UK through the Withdrawal Agreement until the end of the transition period, such national UK rights will be created on 1 January 2021 for those EU rights which are registered before 1 January 2021.

In this White Paper, we give an overview which rights are concerned and what effects and repercussions occur on and after 1 January 2021 for right holders.

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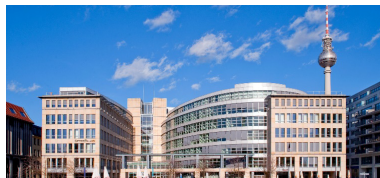
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