

ANALYSIS: BREXIT HAS NO IMMEDIATE EFFECT ON INTELLECTUAL PROPERTY RIGHTS

Press Release

IP PROTECTIONS REMAIN INTACT IN WAKE OF VOTE, SAY LEWIS ROCA ROTHGERBER CHRISTIE ATTORNEYS

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LOS ANGELES – Intellectual Property (IP) rights holders will likely see no immediate effect from the “Brexit” vote for the United Kingdom (UK) to leave the European Union (EU), according to attorneys from Lewis Roca Rothgerber Christie LLP.

“With respect to Intellectual Property protection, not much change is expected in at least the next one to two years or more,” said Art Hasan, co-leader of the Intellectual Property practice group at Lewis Roca Rothgerber Christie LLP.

It is not clear when the UK will formally initiate efforts to exit the EU.

“Procedurally, when the UK officially notifies the EU of its intention to leave, it must complete negotiations of the terms of its exit in the following two years. During that time EU legislation will remain in effect and no changes to any existing IP legislation are expected,” explained Anne Wang, managing partner of the firm’s Los Angeles office.

Patents

The UK is a member of the European Patent Convention (EPC), which is independent of the EU, said Hasan.

“Even after the UK leaves the EU, the UK will continue to be available as a designated state in the European patent application and patent protection in the UK will still be possible via the national, European and international systems currently in place,” he said.

For example, a timely filed PCT application will remain a vehicle for establishing the opportunity to apply for UK patent rights directly or through an EPC national stage designation based on the U.S. filing date, Hasan said.

Professionals

- Art Hasan

Practice Areas

- Intellectual Property
- International Business Services
- Patent
- Trademark

Offices

- Los Angeles

Region

- California

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However, the Unified Patent Court (UPC), which is designed to provide a single vehicle for enforcing patent rights in the EU, due to come into existence in the EU 2017, may now not cover the UK, he continued.

“Therefore, as is the case today, separate enforcement proceedings in the UK may likely continue to be necessary to enforce UK patent rights,” noted Hasan.

Trademarks

EU Trademarks remain valid in the UK and there will be no immediate loss of protection, added Wang.

“After the UK is no longer a member of the EU, it may become necessary for trademark owners to undertake conversion to maintain their rights in the UK depending on negotiations between the UK Intellectual Property Office and the EU Intellectual Property Office,” said Wang.

“Once the UK formally exits the EU, it is expected that new European Union Trade Marks (EUTMs) and Registered Community Designs (RCDs) will not extend to the UK,” she said. “However, it will still be possible to obtain UK Trade Marks and UK Designs directly in the UK through the UK Intellectual Property Office.

“It will also still be possible to seek trademark protection in the UK via International Registration under the Madrid Protocol, as the Madrid Protocol is independent of the EU.”

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