



BREXIT – What it means for Canadian owners of European IP Rights

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Notwithstanding the somewhat surprising outcome of the Brexit vote, there is **no reason to panic**. UK and European IP experts agree that the Brexit will have **no immediate impact** on any European IP rights. In particular, the UK is and will remain a member of the EU for at least two years, meaning that existing enforcement and validity regimes are still in place. Moreover, IP owners will have several years to plan for any changes that do occur.

European Patents after Brexit Remain Unchanged

European experts also agree that the Brexit will have **virtually no impact on patent rights** in either Europe or in the UK. European patent applications are filed through the European Patent Office (EPO), which is **completely separate from the EU** and will not be impacted. Moreover, national patent filings in the UK or other European states will **not be affected**, whether they are direct filings, PCT national stage entries, or validations of European patent applications.

The biggest impact of Brexit will likely be on the forthcoming Unitary Patent and Unified Patent Court (UPC) system. Although not yet in force, the UPC system is designed to create a single European Patent that would be enforceable throughout Europe via specialized courts sitting in different countries. At the very least, Brexit may *delay the implementation of the UPC*, and European experts note that there is a real risk that the UPC will either be weakened or may never actually come into force, at least under the current UPC regulatory framework.

European Trademarks and Community Designs – Prepare for Separate UK Filings

EU trademarks and registered Community designs **remain valid** in the UK, and there is no immediate loss of IP protection. Since the introduction of the European Community trademark system, Canadian businesses have been able to obtain a single trademark registration covering the current 28 member countries of the EU. This has offered enormous savings in cost and efficiency, making EU trademark filings a key step in the creation of a global trademark portfolio. The Brexit vote has generated a flurry of questions, and there are three important points for Canadian businesses to keep in mind:

- Existing EU trademark registrations **continue to be valid and fully enforceable** throughout the EU, including the UK, and **will be so at least until the resolution of the UK's exit terms** under the Lisbon Treaty.
- Going forward, to obtain trademark or design protection in *both* the UK and the remaining EU member countries, separate applications in the UK and EU should be filed.
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For existing EU trademark registrations, **some commentators are suggesting** that it may become possible for EU registrants to maintain uninterrupted rights in the UK with a new UK registration that protects the existing priority claim. This will only be known with

certainty once the detailed exit terms are finalized.

Bereskin & Parr will continue to monitor all developments on the Brexit decision, and will advise clients on recommended steps as soon as more information is available. In the meantime, if you have any questions about the impact of Brexit on your IP portfolio, please do not hesitate to [contact any of the professionals](#) here at our firm.