CIPA

The Chartered Institute of Patent Attorneys

Patents • Trade Marks • Designs • Copyright

The impact of Brexit on intellectual property

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Contents

The impact of "Brexit" on Intellectual Property

1. Introduction

1.1. The UK is still a member of the European Union and will continue to be so until the expiry of the notice period provided for by Article 50.[1]

1.2. The day after triggering Brexit, the Government published details of its Great Repeal Bill which will copy all existing EU legislation into domestic UK law in order to ensure a smooth transition upon leaving the Union. However, this still left the future status of existing EU rights unclear.

1.3. Some clarity was provided by the European Commission through the publication, on September 7, 2017, of its position on EU intellectual property rights post-Brexit[2]. The Commission called for existing rights such as EU Trade Marks, Registered Community Designs, Community Plant Variety Rights, Geographical Indications and Supplementary Protection Certificates, to automatically cover the UK after Brexit.

1.4. Once the UK leaves, there will inevitably be changes to the domestic IP landscape. Details of the ways in which this will impact on the various forms of IP rights remain unclear. There have been proposals for a transitional period for IP rights to enable an orderly exit which would protect the interests of rights holders. CIPA supports these proposals.

2. EU Regulations, EU Directives and the CJEU

2.1. European law will continue to apply to the UK. It is important to distinguish between Regulations and Directives. EU Regulations are directly applicable to all EU Member States without the need for national legislation. In contrast, Directives must be implemented into national law before they take effect. In the UK, Directives are implemented by Statutory Instruments or Acts of Parliament.

2.2. After Brexit, Regulations will cease to be applicable, as they only have effect throughout the EU of which the UK will no longer be a Member.

2.3. Those Directives that have already been implemented into UK law by primary legislation are likely to remain in effect unless the UK Parliament decides to repeal or amend the national laws that transposed them. The position of those Directives that have been implemented by secondary legislation is unclear. Some commentators consider that these will survive, while others consider that they will fall when the empowering legislation, namely the European Communities Act 1972, is repealed.

1 Article 50 Lisbon Treaty http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html Treaty of the European Union not the Lisbon Treaty (which was the amending Treaty).
2 EC position paper on intellectual property rights (including geographical indications) TF50 (2017) 11 https://ec.europa.eu/commission/sites/beta-political/files/position-paper-intellectual-property-rights_en.pdf

Other Directives have not been implemented at all by either primary or secondary legislation, because it was considered that the UK domestic law already was sufficient.[3] In such a case, there ought to be no change in the national law. The Biotech Directive[4] is of particular interest to the patent world. At the time of implementation in the UK, it did not have a major impact on UK law since national courts and the UKIPO had already been recognising the validity of patents for biotech inventions, provided they met the necessary criteria.

2.4. It is the Government's position that, upon leaving the EU, the Court of Justice of the European Union (CJEU, which includes the General Court) would cease to have jurisdiction over UK matters and so cease to be binding authority.[5] In practice however, their decisions may still indirectly influence the UK courts. For example, the Boards of Appeal (BoA) of the EPO will continue to follow the CJEU rulings on the Biotech Directive and the UK Courts may continue to pay attention to the BoA decisions. In the past, the CJEU's interpretation of the Biotech Directive has caused some concern, in particular with regards to the patentability of stem cells. The UK courts may wish to diverge from CJEU precedent, but may be cautious as to do so as it would move away from the position of other EPO contracting states. Further, if the UPC goes ahead, the UPC will be bound by the CJEU's decisions on the Biotech Directive and SPCs. Whether or not the UK courts will be thereby bound will depend upon its relationship with the UPC.

2.5. In relation to trade marks, the law as it now applies in the UK under the Trade Marks Act 1994, which follows the EU Trade Mark Directive, has been largely developed by decisions of the CJEU. Whether the UK courts will see fit to depart from decisions of the CJEU in the future remains to be seen. The same to some extent applies to the law of designs.

3. EPC, PCT and UK patents

3.1. The European Patent Convention (EPC)[6] is not a piece of EU legislation and will therefore be unaffected when the UK leaves the EU, as will representation rights of UK-based European Patent Attorneys, who will still be able to represent clients in all work before the EPO. European patent holders will not lose any rights and patents already obtained via the European Patent Office will remain unaffected.

3.2. The EPC system works well and there is no reason, nor any plan, for the UK to leave it. The EPO will grant Unitary Patent (UP) patents when these become available. The President of the European Patent Office (EPO), Benoît Battistelli, issued a statement on the day of the EU referendum results to say that the UK's participation

3 An example would include the Enforcement Directive 2004/48/EC.

4 Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions

5 Unless special provision is made for EU jurisprudence to continue to apply.

6 European Patent Convention 1973 http://www.epo.org/law-practice/legal-texts/html/epc/2016/e/index.html

in the EPO remained unaffected and that the EPO expected the UK and the participating Member States to find a solution as soon as possible which would also allow a full implementation of the Unitary Patent and the Unified Patents Court (UPC) - see further below.[7]

3.3. Patent Co-operation Treaty (PCT)[8] applications will remain unchanged as this is not an EU treaty. There will also be no effect on UK patents granted by the UK Intellectual Property Office (UKIPO).

4. Community Trade Marks, Registered Community Designs, Community Plant Variety Rights and Geographical Indications

4.1. A number of intellectual property rights deriving from EU Regulations will no longer apply to the UK if we leave the EU and their validity after Brexit remains uncertain. However, as mentioned in paragraph 1.3, the European Commission has called for these rights to automatically cover the UK after Brexit. These include rights created under the Community Trade Mark (Regulation (EC) No 207/2009), Registered Community Designs (Regulation (EC) No 6/2002), Community Plant Variety Rights (Regulation (EC) No 2100/94) and Geographical Indications (Regulation (EU) 1151/2012). There have been proposals for a transitional period for IP rights which will enable an orderly, smooth exit that will protect the interests of rights holders. CIPA supports these proposals. New applications can be filed as either EU (not acquiring UK rights) or UK national applications and it is likely that priority could then be claimed in the UK or the EU as needed.

4.2. CIPA is working with CITMA and the UK Government to achieve the aim that the terms of any settlement with the EU will include the ability for UK attorneys to continue to act before the EUIPO in relation to trade marks and designs and to ensure that holders of EU trade marks and design rights will not lose protection in the UK upon Brexit.

4.3. It would be prudent to review all licences/settlements/delimitation/co-existence agreements relating to portfolios of existing EU trade mark and registered and unregistered design registrations now. CIPA expects that a transitional "non-use" period will be negotiated as part of the process for EU registered marks that were only used in the UK (and that remain registered as EU trade marks) and for new UK marks that were never used in the UK, prior to the effective date of Brexit. The mechanism for achieving this remains unclear but we are working with the UKIPO and other stakeholders to achieve the optimum outcome.

4.4. The UK will remain a member of the Paris Convention and the Madrid System after the UK's exit. CIPA expects that the UK will continue to recognise the priority filing dates of Madrid and/or EU trade marks that are currently in effect. All existing EU

[7] https://www.epo.org/news-issues/news/2016/20160624.html
[8] http://www.wipo.int/pct/en/

unregistered design rights and Hague registrations will continue, unaffected, until the UK exits. The position of applications pending at the effective date of exit is unclear. It is anticipated that the UK will join the Hague registration system in 2018.

4.5. The position of the new Trade Mark Directive remains unclear. The government has proposed to consult on implementation of the Directive into UK domestic law. CIPA believes it likely that the Directive will be implemented in line with the Government's stated intentions on other European Directives.

5. Trade Secrets, Data Protection and data safety

5.1. There should be no change for the holders of trade secrets as the UK is already exceeding the minimum standards as specified by the EU Trade Secrets Directive (ref 2013/0402(COD)). There is no need for the UK to implement the new Directive and it might be best not to in order to avoid legal uncertainty.

5.2. The Data Protection provisions are an involved mix of UK and EU provisions, further complicated by the informal notes of advice issued by the Information Commissioner. A particular area of potential concern will centre on the movement of data across borders.

5.3. The UK has had a cyber security strategy in place since 2011, which is regularly reviewed and updated. It has also had formal data protection measures in place since 1988, which will continue.

6. IP rights relating to medicinal rights and plant protection covered by EU Regulation

6.1. We expect the UK Government to re-enact the necessary EU Regulations and existing Statutory Instruments, at least in the short to medium term, to avoid any negative impact on IP protection.

6.2. The following rights (apart from copyright) are intimately connected with the EU regulatory framework for medicinal products. In particular, the duration of these rights is triggered by the date of the first marketing approval in the EU. This period may continue in any transitional period after the UK's exit from the Union. How closely these rights will continue in their present form in the UK is likely to depend on whether and to what extent the UK regulatory framework remains connected to or aligned with the EU system.

6.3. Both the UK Government and the European Commission have published positions stating that rights already obtained should continue to exist in the UK and should continue to be available in the future.

6.4. CIPA will press the Government for such action in relation to IP rights, including:

6.5. SPCs

6.5.1. SPCs were introduced in the UK through EU Regulation (EC) No 469/2009 (of 6 May 2009).[9] The rationale behind the introduction of the SPC Regulation is set out in the Commission's Explanatory Memorandum (COM (90) 101 final). SPCs are a form of patent term restoration to compensate for regulatory delays in the approval of medicinal products. They have a maximum term of five years and the holder of the patent and related SPC on a pharmaceutical product can enjoy an overall maximum of 15 years patent plus SPC protection from the date when the product first obtained marketing authorisation in the EEA (now extended to 5.5 years and 15.5 years if the product is awarded a paediatric extension under Regulation EC No 1901/ 2006.[10])

6.5.2. SPCs derive from an EU Regulation but have effect in relation to national patent rights including those deriving from European patents. CIPA anticipates that pending and existing SPCs will be unaffected (see above). However, some modifications may be necessary, for example, the Marketing Authorisation (MA) on which the time period of the SPC is based is currently the first MA in the EEA but it could be argued that in relation to UK SPCs it should become the first UK MA. In the longer term, it is possible that the UK may enact SPC rights after the UK's exit that are more favourable to innovator companies that carry out research and develop new products. For example, it has been suggested for some time that medical devices should be the subject of SPCs and other products that are effected by regulatory delays could also be considered. The effective term of pharmaceutical SPCs has also reduced over the years and this could also be the subject of review. The European Commission is carrying out a study on the effects of SPCs. The results of this study could influence UK policy as the UK is likely to still be a member of the EU when the study results are published.

6.6. Regulatory data protection (RDP)

6.6.1. RDP for pharmaceuticals in the EU is provided for by Regulation (EC) No. 726/2004[11] and Directive 2001/83/EC, as amended by Directive 2004/27/EC (implemented in the UK *inter alia* via the UK Medicines Act).

6.6.2. The regulatory data protection period in Europe is commonly referred to as '"8+2+1". This comprises:

> a period of 8 years true data exclusivity, running from first marketing approval in the EEA, during which period the EMA may not progress an abridged marketing application which references an originator's regulatory data (pre-clinical and clinical trial data);
> a further period of 2 years market exclusivity during which a generic product cannot be placed on the market; and,

[9] http://ec.europa.eu/health/files/eudralex/vol-1/reg_469_2009/reg_469_2009_en.pdf
[10] http://ec.europa.eu/health/files/eudralex/vol-1/reg_2006_1901/reg_2006_1901_en.pdf
[11] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:136:0001:0033:en:PDF

a further 1 year marketing exclusivity may be obtained where the originator is granted a further MA for a significant new indication, within the original 10 year exclusivity period.

6.6.3. This regime applies to EU marketing authorisations applied for from November 2005 (and national applications from October 2005). Prior to this the duration of RDP was not harmonised within the EU, with a 10 year RDP period for MAs filed via the centralised procedure, and either 6 or 10 years, depending on the Member State, for MAs filed via the national or mutual recognition procedures.

6.6.4. Following the UK's exit from the EU, we expect that, at a minimum, the UK will continue to provide RDP at the existing level. As noted above, a major consideration will be whether RDP commences from the date of the first MA in the EEA or the first MA in the UK.

6.6.5. There may be the potential to enhance RDP protection in a separate UK system, for example in relation to the criteria for obtaining additional RDP for a new indication, or the duration of the protection.

6.7. Orphan drug exclusivity

6.7.1. EU Regulation (EC) No 141/2000 [12] provides incentives and rewards for developing medicines to treat rare diseases, and is currently in effect in the UK. It permits 10 years market exclusivity with respect to similar medicines for similar indications, and therefore has a broader scope than RDP. The Commission is currently undertaking a review of the concept of 'similarity' and while still a member of the EU the UK is able to input into this review. The duration of ODE is determined by the date of first marketing approval for the orphan indication in the EU. It is expected that at least in the short-medium term any separate UK legislation would be based on the current EU regulation, unless and until the UK ultimately introduces a national system for approving orphan drugs.

6.7.2. As for RDP, if the UK ultimately implements a separate national framework for approval of orphan drugs, there may be the potential to provide enhanced incentives and rewards, such as a longer period of protection, or different criteria for designating Orphan products.

6.8. Database protection and semiconductor rights

6.8.1. These rights were created by implementation of EU Directives and will remain in place as a result of the Great Repeal Bill.

[12] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:018:0001:0005:en:PDF

6.9. The Nagoya Protocol

6.9.1. CIPA has previously expressed its concerns about the damaging effect that EU implementation of the Nagoya Protocol to the Convention on Biological Diversity may have on UK science in general and particularly on important biological research that may be conducted in the public interest in the UK.

6.9.2. The Nagoya Protocol, which came into effect in October 2014, codifies the right of all countries to control research on non-human genetic resources (GR) found within their borders. It expands on the principles found in the Convention on Biodiversity (CBD). That states that all research on GR (including DNA and chemicals naturally produced within organisms) requires 'prior informed consent' and 'mutually agreed terms' from the 'country of origin'.

6.9.3. Nagoya also obliges countries housing users of GR ('user countries') to respect laws of the 'country of origin'. Future research on GR will therefore be regulated by the laws (if any) of 'countries of origin'; as well as the laws of 'user countries'.

6.9.4. The EU has implemented these requirements through Regulation 511/14. The intention of this Regulation is to ensure lawful use of GR in accordance with the Protocol. However, CIPA believes that the obligations it imposes are unclear and far too onerous.

6.9.5. CIPA believes that leaving the EU offers the UK the opportunity to alter the implementation of the Protocol in the UK. CIPA therefore proposes that the UK Government should consult with the user community in the UK before introducing an amended implementation of the Protocol. What is required are provisions that provide a reasonable opportunity for Nagoya members to receive a return from research on their unique GR while still allowing research on all other GR to continue unhindered. The Regulation's obligation of 'due diligence' to ensure that GR are not researched in breach of the rights of 'provider countries' may be maintained, but it must be clarified. It should also be subject to specific exceptions, to ensure that research on most readily available GR can be carried out promptly with the minimum of formality. These exceptions would provide that GR accessed in a country that (like the UK) does not assert 'Nagoya rights' may, in default of notice to the contrary, be assumed to be free of research restrictions. Further, Nagoya members in breach of their obligations to publish details of their relevant national laws, or of their right-granting authorities, should not be allowed to assert any rights over GR accessed before such publication. The requirement to retain copies of benefit-sharing agreements with providers should be reduced from 20 to (say) three years after research ceases. Finally, the Regulation's three month time-limit on unsanctioned research vital for public health should be removed. Such amendments will restore a proper balance between the reasonable aspirations of the Nagoya Protocol, and maximising freedom to research, particularly in pursuit of important public objectives such as health and the environment.

6.9.6. In the longer term, the UK Government should negotiate to adjust the Protocol so that provider countries lose their power of veto over important research (e.g.

on health threats, food security and the like). If such negotiations are unsatisfactory, UK membership of the Protocol should be reviewed.

6.9.7. CIPA also urges the UK Government after it has replaced the Regulation to produce clear official guidance, with examples, as to what companies and researchers should do to comply with the Protocol, especially regarding due diligence. Detailed consultation should take place with the user community.

7. Copyright

7.1. The UK will continue to protect copyright (including existing copyrights) in accordance with the Berne Convention.[13] Copyright is in general not subject to EU harmonisation and no changes to copyright law are expected as an immediate consequence of exit from the EU. However, EU competition law impacts on how copyright works (including digital content, broadcasts and films), are licensed and exploited within the EU and there could be some changes there when the UK is no longer subject to EU competition law.

8. IP disputes

8.1. The UK has a sophisticated and highly successful litigation system, including the innovative and affordable Intellectual Property Enterprise Court (IPEC) which has many features in common with the UPC. The IPEC started life as the Patents County Court (PCC) but in 2009 the Patents Courts Users Committee suggested proposals for new rules. These rules were enacted in October 2010 and were strongly influenced by the final draft of the EPLA (European Patent Law Agreement). The EPLA was, of course, relied on heavily in drafting the UPC. In 2012, a small claims track was added and in 2013, the PCC moved into the High Court, and changed its name to IPEC.

8.2. IPEC's procedure is governed by a set of rules which apply only in the IPEC and which, taken as a whole, set it apart from the procedure elsewhere in the High Court. The main differences are:

a cap on the costs which the losing party is liable to pay the successful party (£50,000);

a cap on the damages which may be recovered (£500,000);

8.3. more detailed pleadings – these must be concise but must identify all arguments to be relied upon as well as the nature of the parties' cases;

8.4. limits on disclosure available - specific disclosure can be sought but must be justified and will be limited by reference to one or more issues; no disclosure reports are needed;

[13] http://www.wipo.int/treaties/en/text.jsp?file_id=283698

8.5. limits on evidence which can be adduced - expert evidence will only be permitted if the court is satisfied that it is needed; the scope of expert evidence will be also be limited by reference to issues and also sometimes by length, i.e. to a maximum number of pages; and,

8.6. more active case management than is usual in the English High Court – the Case Management Conference is held before the presiding IPEC Judge; the trial will normally be less than two days.

8.7. The idea behind this type of court was born of a concern that parties who wanted to protect their IP rights were deterred from doing so by the cost of IP litigation. Not least, they were worried by the potential liability in costs payable to the opposing party if the litigation did not go as planned. These were for the most part small and medium enterprises (SMEs) and to some extent individuals. The consequence was that such parties' IP rights were frequently left unenforced and were comfortably ignored by infringers.

8.8. The new rules have led to a substantial increase in the use of the PCC/IPEC. In 2001, there were almost no cases while in 2010 there were 89 cases. This number increased to 157 cases in 2011 and 202 cases in 2012. It is still rising. In the same period since 2010, the number of IP cases filed in the Patents Court and general Chancery Division has not declined – the opposite, if anything. Furthermore, partly in response to the success of IPEC, the High Court has since October 2015 also been piloting two schemes, the Shorter Trials Scheme and the Flexible Trials Scheme, which translate some of the benefits of IPEC style procedure to cases in the High Court. Thus, the UK court system will continue to provide a fair and balanced system for litigation between parties post UK exit from the EU.

8.9. Approximately 70% of the litigants before the IPEC are SMEs, the rest are larger companies and individuals (many of whom represent themselves as litigants-in-person). Cases can be transferred between High Court and IPEC and vice versa if, *inter alia*, the complexity or value of the case makes this desirable. In addition, alternative dispute resolution methods are well respected and recognised in the UK, particularly by the courts. The UK has a well-developed arbitration system and London is often chosen as the seat of international arbitration. This will continue.

8.10. The UK is a signatory of a number of international conventions in relation to choice of forum (of the court, etc.), recognition of judgements (and arbitration decisions) and conflict of laws (for example the Hague Conventions). This will continue following the UK's exit from the EU and will continue to make the UK a good place to litigate IP disputes

8.11. All IP professionals in the UK enjoy a high level of legal professional privilege, which allows clients to be completely open with their legal advisors. There will be no change to these favourable privilege provisions.

9. The Unitary Patent and Unified Patent Court

9.1. The Unified Patent Court (UPC) Agreement[14] is a pan European project involving some but not all EU states.

9.2. At a meeting of the EU Competitiveness Council on 28 November 2016, the UK Minister of Intellectual Property signalled the UK government's intention to continue with preparations to ratify the UPC Agreement. There has been a lot of support expressed for the UPC project to continue with the UK as a member, and CIPA supports the UK's continued participation as discussed below.

9.3. The precise nature of the UK's continued participation after exit from the EU still needs to be resolved. The government has said that it will seek the best deal possible as the UK negotiates a new agreement with the European Union, but the decision to proceed with ratification should not be seen as pre-empting the UK's objectives or position in those negotiations.

9.4. Article 89 of the Agreement requires ratification by thirteen member states including the "three Member States in which the highest number of European patents had effect in the year preceding the year in which the signature of the Agreement" took place. The UK has deposited the documents required to ratify the Protocol to the Agreement on a Unified Patent Court, which permits the provisional application of the UPC Agreement, allowing the set up of the court and its systems. Thirteen states are required to ratify this and a few more states need to ratify this protocol for it to become operational. At the moment, these are the UK, Germany and France. Eleven countries including France have now ratified the Agreement. If the UK now goes ahead with ratification, the Agreement will still require ratification by Germany in order for it to come into force. There has been a challenge in the German constitutional court to its membership of the UPC. This is causing a delay, the result of which remains unclear.

9.5. Article 7 of the UPC Agreement states that the Central Division of the UPC will have a seat in London dealing with life sciences and human necessities, which will be located in Aldgate Tower, London: as of the end of 2016, the fit-out works for the new court are nearly completed. There will also be Central Division courts in Paris and Munich. If the UK does not remain a member of the UPC after exit from the EU, there will need to be provisions for changing the location of the Central Division's seat in London and there will be a need for further transitional provisions to protect any rights acquired or cases in progress at the time the UK leaves. Whether UK European Patent Attorneys (or indeed other non-EU European Patent Attorneys) will be able to represent parties in the different Divisions of the UPC after the UK exits the EU is unclear.

9.6. CIPA has a strong preference for the UK to participate in the UP and UPC system, if a solid legal basis for this can be agreed. The UK government, assisted by CIPA and other national stakeholders, has worked tirelessly over many years to create a system favourable to the UK and business which should simplify the patent system

[14] https://www.unified-patent-court.org/sites/default/files/upc-agreement.pdf

for businesses and reduce their costs. CIPA is working with other interested parties, including international colleagues, to optimise the chances of the UK's continued participation.

9.7. CIPA (along with others) has taken advice from a UK lawyer experienced in constitutional and EU law. His advice is that it is legally possible for the UK to participate in the UPC and the UP after exit from the EU. This would require a new international agreement with the participating Member States and the UK to provide compatibility with EU law and a number of amendments would have to be made to the UPC Agreement. However, there are still significant political difficulties to overcome in both the UK and continental Europe in order to achieve this. CIPA welcomes the government's intention to continue with the process of ratification, and looks forward to working closely with the UK IPO and other stakeholders to secure the UK's continued participation in the UPC after our exit from the EU.

10. IP transactions

10.1. The UK continues to be a good venue for IP transactional work, with highly qualified, skilled and experienced legal professionals. The law of England and Wales will continue to be a favourable governing law for IP transactional agreements. Business continues as usual, and the English courts can still be specified with confidence as the forum for any disputes.

10.2. The UK has an enviable track record in technology transfer. The highly successful Lambert Toolkit of templates helps to facilitate agreements between UK universities and business. These templates have recently been updated.

11. Parallel imports and exhaustion of rights

11.1. The position may change during any transitional period and, thereafter, following the UK's exit depending on the precise arrangement reached. If the UK leaves the EU without joining any other Agreement (e.g. EEA or EFTA), the existing rules on exhaustion of rights will cease to apply. This is a complex area and CIPA is working with stakeholders to achieve clarification. There is a possibility that this could lead to a more advantageous regime for rights holders. The paper published by the EC referenced in para 1.3 recommends that if exhaustion of rights has already occurred in the EU before Brexit, then those rights should remain exhausted in both the EU and UK after Brexit. CIPA agrees with this position.

11.2. This matter is significantly complicated by the Irish border problem, namely whether the border between Northern Ireland and the Republic becomes a soft or hard border with inspection of all commercial traffic after UK exit.

12. IP tax relief

12.1. There will be no change for companies claiming UK corporation tax relief via the Patent Box scheme on the profits they make from patented inventions. The opportunity should exist for discussions between the UK Government and stakeholders to make the system more attractive for those investing in the UK. There will also be no change to research and development tax credits as a result of Brexit.

13. Conclusion

13.1. In the short term, it is business as usual for patent and trade mark attorneys and their clients in the UK. There is no change to the UK's membership of the EPC and to European patents. CIPA supports the Government's moves towards ratification of the UPC and membership of the UP. Following UK exit, EU trade marks and design rights deriving from the relevant EU regulations will cease to apply in the UK and transitional provisions will be needed to ensure that affected marks and designs can continue to be protected in the UK. UK patent and trade mark attorneys continue to have all the rights they have at the moment to work before the UK IPO, the EPO and the EUIPO. CIPA will work with the UK Government and other interested parties to ensure that as many of these rights as possible are retained after exit from the EU.

13.2. The UK is an excellent venue for business and for obtaining and enforcing IP rights in Europe. CIPA is committed to ensuring that this will continue.