

Post-Brexit EU Trade Mark Protection

As a holder of pending EU trade mark application filed before 1st January 2021, you can apply for registration of the same mark in the UK until 30th September 2021 and keep the earlier filing date of your EU trade mark application.

The UK has left the European Union and the transition period ends on 31st December 2020. As a result, your application for an EU trade mark (EUTM) will no longer cover the UK as of 1st January 2021. However, as a holder of an EUTM application filed before 1st January 2021 and where that application was accorded a date of filing, you are entitled to apply for registration of the same trade mark before the UK Intellectual Property Office (UKIPO). Such application shall:

- be filed within 9 (nine) months as of 1st January 2021 (i.e. until 30th September 2021);
- refer to the same sign and to goods or services which are identical with or contained within those for which the application has been filed in the EU;
- keep the filing date of the EUTM application;
- keep the priority date or the UK seniority date claimed for the EUTM application (if any);
- be treated as a UK application and examined under UK law.

The standard fees for online filing of an application for registration before the UKIPO apply:

- £170 (approx. EUR 191), including one class of goods or services;
- an extra £50 (approx. EUR 56) for each additional class.

For filing by post the following fees shall apply:

- £200 (approx. EUR 225), including one class of goods or services;
- an extra £50 (approx. EUR 56) for each additional class.

If you intend to file an application for a UK trade mark not corresponding to an EUTM application, you shall bear in mind that in the nine months period someone could file a UK application after you and claim the earlier date of a corresponding EUTM application. In such case the later-filed UK application will take precedence.