



1/22/2021 | [Legal Updates](#)

The Post-Brexit IP Landscape: Designs

A number of IP rights that apply across the European Union no longer apply to the United Kingdom, now that it has left the EU and the transition period has come to an end. This includes Community registered and unregistered designs. However, for those who held these IP rights before the end of the transition period at 11pm on 31 December 2020, a replacement right will be granted in the UK by the UK Government. The statutory instrument that applies is, “[The Designs and International Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)”.

Registered community designs: If a design is registered on the RCD register and published in the Community Design Bulletin before the end of transition, it will be treated in the same way as if it were a UK registered design. It will be automatically entered on the UK register at no cost and termed a “re-registered design”. The priority date and any other assessment dates will remain the same. Note, design owners can opt out of the automatic entry onto the UK register should they wish.

Registered international designs: The same applies to designs registered for the EU under the Hague System, although these will be termed “re-registered *international* designs” instead. The Hague System for the International Registration of Industrial Designs will remain open for UK businesses to access as the UK has already ratified this agreement in its own right.

However, if the application for a design right is pending after the transition period ends, despite having a filing date, the rights holder will have to re-file its application at the UKIPO as a UK application within nine months from 1 January 2021.

Unregistered community designs: UCDs that exist before the end of the transition period will automatically convert into an equivalent UK right post-transition, the “supplementary unregistered design right”. These new equivalent rights will be called “continuing community unregistered designs”. These rights will expire on the same day they expire in the EU. Where designs are first disclosed, will be significant post-transition. UCDs arise when the design is first made available in the EU, therefore, qualification for the new UK right will be dependent on first disclosure in the UK, or other qualifying country, but first disclosure in the EU will not establish the right and may destroy the novelty in the design.

Summary (TL;DR)

- Existing Community registered designs will be replaced with, “**re-registered designs**”.
- Existing Community registered designs under the Hague System will be replaced with, “**re-registered international designs**”.
- Existing unregistered Community design rights will be replaced with, “**continuing unregistered Community designs**”.
- a new type of unregistered design right will replace the rights gained by current unregistered Community design rights, known as the, “**supplementary unregistered design right**”.

Conclusion

At Haley Guiliano LLP, we tailor our relationship for every one of our clients, recognizing that a cookie-cutter approach to IP representations is not adequate. We make it a point to understand our client's business, its needs, and its goals. This underpins the work that we perform in the course of our representation. For more information on any of the matters discussed above, contact us [here](#).

By Joel David Briscoe and Kevin Hanson