

BREXIT “NO DEAL” TECHNICAL NOTICES PUBLISHED ON INTELLECTUAL PROPERTY AND LIFE SCIENCES SECTOR ISSUES

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Legal Briefings - By **Joel Smith and Rachel Montagnon**

The latest tranche of “no deal” technical notices was released yesterday afternoon by the UK Government. Amongst them are several notices that highlight the Brexit issues faced by intellectual property right owners and, in some cases, confirm the Government’s approach to resolving them. The Government also released this [news story](#) today which comments on the guidance given in the technical notices and the Government’s longer term aims for IP protection.

For those with an interest in Life Sciences, please also see our [blog post](#) on the notices related to that sector that were released last month.

Key announcements, in the context of no deal, in this round are:

- Provision of **a new right to replace unregistered Community design rights**, to be known as *“the supplementary unregistered design right”*.
- **Existing EUTMs and Community registered designs will be replaced with new, equivalent rights in the UK** at the end of the implementation/transition period, *“with minimal administrative burden”*.
- The **SPC, compulsory licensing, pharmaceutical product testing exception and patenting of biotechnological inventions regimes will remain unchanged** at least

initially.

- **If the UPC comes into force the UK will replace unitary patent rights with equivalent rights if the UK needs to withdraw** from the new system, although the UK *“will explore whether it is possible to remain within it”*. The Government’s news story states that *“The UK intends to stay in the Unified Patent Court and unitary patent system after we leave the EU.”*
- UK originating **sui generis database rights** will no longer be enforceable in the EEA; *“UK owners may want to consider relying on other forms of protection (e.g. restrictive licensing agreements or copyright where applicable) for their databases”*
- The **UK will set up its own GI scheme** *“which will be WTO TRIPS compliant”*. The new rights *“will broadly mirror the EU regime and be no more burdensome to producers”*. Since the UK would no longer be required to recognise EU GI status, EU producers would be able to apply for UK GI status. Those wishing to protect UK GIs in the EU will need to submit applications on a third country basis.
- The **UK will continue to accept the exhaustion of IP rights in products put on the market in the EEA** by, or with the consent of, the rights holder. However, the EU will likely not consider that goods placed on the UK market are exhausted in the EEA, and thus permission may need to be sought from the rights holder to transfer goods to the EEA that have legitimately been put on the market in the UK. The Government news story says that *“The UK looks forward to exploring arrangements on IP cooperation that will provide mutual benefits to UK and EU rights holders and we are ready to discuss issues the EU wishes to raise in the negotiations on our future relationship, including exhaustion of IP rights”*.

Links to the notices:

1. [Patents](#)
2. [Trade marks and designs](#)
3. [Copyright](#)
4. [Geographical Indication](#)
5. [Exhaustion of IP rights](#)

More detail on each of these is provided on our Intellectual Property Notes blog [here](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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