



## Intellectual Property Law (post-transition)

The Political Declaration is an agreement between the UK & EU with Part VII relating to Intellectual Property. It includes four commitments:

- s42 both parties committed to enhance IPRs protection above global standards
- s43 preserve high levels of IP protection
- s44 UK & EU have freedom to establish own UK & EU regimes for exhaustion of rights
- s45 mechanism for cooperation and exchange of information on IP issues of mutual interest

### UK-EU Trade and Cooperation Agreement

The new trade agreement we've signed and gone into with the EU, consisting of seven parts, plus annexes and protocols.

The TCA Part Two: Trade Title V relates to Intellectual Property and has been enacted.



### TCA Part Two: Trade - Heading 1: Trade - Title V: IP

**Chapter 1** sets out the general provisions, defines the scope of IP and elements of the TCA.

**Chapter 2** sets out the standards of IPRs. Within the TCA there needs to be a common set of definitions so both parties are talking about the same thing.

**Chapter 3** sets out the provisions in relation to the enforcement of IPRs. This is in relation to the civil law enforcement of IP rights and border control measures.

**Chapter 4** picks up on a commitment in the Political Declaration for increased cooperation and dialogue, with provisions in relation to cooperation and exchange of information.

### Chapter 1, Section 1

**Article IP 13.8** - both parties have the freedom to provide for longer terms of copyright protection.

In the agreement either party could actually extend the term of protection further – example of enhanced protection measures under the TCA.

**Article IP 14** - relates to Collective Management Organisations (CMO's) so bodies like PRS, PPL, Authors Association, Literary Agents Association. We have a range of collecting societies and the rules in relation to them are specifically mentioned.



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**Chapter 3, Section 2** - sets out the civil enforcement regime & must include measures for preserving evidence. It must have rules of evidence for civil proceedings and right of information so that civil proceedings are carried out in public and not in secret.

### Chapter 1, Section 3

**Article IP. 31** - in relation to designs as it deals with the relationship between designs and copyrights.

The international agreement in relation to designs is the Hague Agreement for the International Registration of Industrial Designs.

Within the agreement the UK/EU have the flexibility to define their extent of originality and the extent of protection.

### Chapter 3, Section 4

Border Enforcement Measures - mandates both parties to maintain customs procedures and formalities at borders.

Parties must maintain procedures that enable suspect goods to be seized & detained at borders.

Under this TCA is a mandate that parties use electronic systems to make customs interaction smoother plus no administration fees.

### From 1 January 2021:

#### Trade Marks

- EUTMs no longer protect trade marks in the UK – formerly 'E' number RTMs
- International TMs designating EU no longer protect in UK – formerly 'WE' number RTMs

#### Design Rights

- Registered Community Designs (RCDs) no longer protect in UK
- Unregistered Community Designs (UCDs) no longer be valid in the UK
- Hague EU Designations (registered designs) no longer be valid in UK



### Implications for Trading Standards - points to look out for – date of offence – in 2020 or 2021?

- New Comparable RTMs
- New RTM numbers
- UK008 – old EU RTMs
- UK009 – old WE RTMs
- Registered Community Designs
- Become Equivalent RDs
- New 8 prefix RCDs
- New 9 prefix Hague Designs
- Existing UK RTMs & UK Registered Designs unaffected

