

IP ALERT – Brexit News: Brexit is delayed until 12 April

March 2019

On 22 March, the 27 EU Member States agreed to grant an extension to the UK's departure from the EU, which otherwise would have occurred on 29 March 2019, two years after the UK triggered Article 50.



This extension was in response to British Prime Minister Theresa May's request, following the House of Commons' vote refusing to approve the deal which had been negotiated with the EU for a "soft" Brexit. It is now urgent to conclude the negotiations since the next EU Parliamentary elections will take place on 23 May.

According to the EU's decision, the UK now has until 12 April 2019 to accept the current deal, which has been slightly amended to clarify the difficult question of the situation of Northern Ireland.

If the deal is accepted by the UK House of Commons before that date, Brexit will occur definitively on the 22 May 2019 and the agreed deal will guarantee a smooth transition until a complete agreement between the UK and the EU is accepted, sometime before the end of 2020.

If before the 12 April 2019 deadline, however, the deal has not been accepted by the UK House of Commons, and the UK government indicates that it will not participate in the EU parliamentary elections, the UK will exit the EU without any agreement on the 12th of April (so called "no-deal" or "hard" Brexit), which could result in possible chaos at the borders between the UK and its neighboring EU Member States.

If, however, elections to the EU Parliament, scheduled for the 23rd of May, could be organized in the UK, a further delay, up to the end of 2020, could then be requested by the UK and possibly granted, for the continuation of the negotiations between the UK and the EU on an amended agreement or any other solution concerning Brexit.



In conclusion:

The risk of a no-deal Brexit on April 12 appears serious.

The consequences on IP rights are detailed in our note of the 25th of January.

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In summary:

There is no impact on European patents since the EPO is outside the EU jurisdiction.

EU trademarks and Community designs will no longer be protected in the UK, but national corresponding rights will be granted by the UK IPO as from the exit date.

Concerning pending applications for EU trademarks and Community designs, it will be possible, for a period of 9 months, to file new UK national applications claiming the priority date of the pending application.



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