



Brussels, 4 June 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF CUSTOMS ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'³.

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, intellectual property right owners are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangements that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules on customs enforcement of intellectual property rights, and in particular Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights,⁴ no longer apply to the United Kingdom.

This has in particular the following consequences:

According to Section 1 of Chapter II of Regulation (EU) No 608/2013, an applicant can submit to the competent customs department a Union application requesting the customs authorities of that Member State and of one or more other Member States to take action with respect to goods suspected of infringing an intellectual property right. In the case of a Union application, where the application is granted by the competent customs department in accordance with Articles 7 to 9 of Regulation (EU) No 608/2013, this

¹ Negotiations are ongoing with the United Kingdom with a view to reach a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ OJ L 181, 29.6.2013, p. 15.

decision takes effect in all Member States where action by the customs authorities are requested (Article 10(2)(b) of Regulation (EU) No 608/2013).

- Submission of Union applications: As of the withdrawal date, Union applications can no longer be submitted to the competent customs department of the United Kingdom.

Union applications submitted in one of the EU-27 Member States remain valid in the EU-27 as of the withdrawal date even if the customs authorities of the United Kingdom are amongst the customs authorities requested to take action. Where a Union application was submitted in a Member State other than the United Kingdom, only requesting the customs authorities of that Member States and the customs authorities of the United Kingdom to take action, that application remains valid as a national application for the Member State in which it was submitted.

- Decisions concerning granted Union applications: As of the withdrawal date, decisions granting Union applications adopted by the competent customs department of the United Kingdom as a Member State on the basis of Union law are no longer valid in the EU-27.

Decisions granting Union applications adopted in one of the EU-27 Member States remain valid in the EU-27 as of the withdrawal date even if the customs authorities of the United Kingdom are amongst the customs authorities required to take action. Where a Member State other than the United Kingdom adopted a decision granting a Union application, requiring only the customs authorities of that Member State and the customs authorities of the United Kingdom to take action, that decision remains valid for the Member State in which it was submitted.

The website of the Commission on taxation and customs union (https://ec.europa.eu/taxation_customs/business/customs-controls/counterfeit-piracy-other-ipr-violations/defend-your-rights_en) provides for general information on the rules on customs enforcement of intellectual property rights. These pages will be updated with further information, where necessary.

European Commission
Directorate-General Taxation and Customs Union