



The Diplomacy of Hermes in Action

2nd Session: BREXIT Update

Industry Perspective

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Abstract

1. Introduction
 - a. Who am I ?
 - b. Who is P&G ?
2. P&G Slide showing current products
3. P&G TM statistics, pending actions, coexistence agreements etc.
 - a. 73.087 registered TMs (incl. IR extensions)
 - b. 4.832 pending appl'ns
 - c. 2.795 pending conflicts
 - d. 9.338 licence & coexistence agreements
4. Where it all began in 1996 (*or a few months' earlier*)
 - a. 226 CTM filings in April 1996
 - b. 162 of these claimed seniority
 - c. 1.868 seniority claims
 - d. Approx.. 11/appl'n (PAMPERS = 40, CREST = 39)
5. Where was I in 1996 and today ?
6. EUIPO today
 - a. P&G has 2.038 registered EUTMs
 - b. 3.376 RCDs
 - c. UK national marks : 687
 - d. *How many of these are seniorities ?*
 - e. Pending EUTMs : 52
 - f. Pending actions : 26 (21 opps & 5 cancellations)
7. Inhouse Counsels' Reaction to Brexit (*whether to file EU + UK ?*) : Filing Strategy
 - a. Is the project relevant to UK?
 - b. How important is the intended mark from a legal perspective? From a business perspective? What will be the UK business ?
 - c. Is there a strategic value in filing the mark in the UK and EU (*beyond general caution behind the uncertainties linked to Brexit*), e.g. would a UK application be part of any clearance strategy?
 - d. Is there a strategic value in NOT filing a UK application? Low profile clearance ?
 - e. What does my budget look like?
8. What Owners would like :
 - a. EUTMs & RCDs transformed into national right at no extra cost and with no action
 - i. UKIPO might need to stagger publications - have been recruiting like mad – over one million reg'd marks
 - ii. UK join the Hague Agreement in June 2018
 - b. Priority & Seniority : Priority will be kept – what about seniority – will this be automatically taken over too ? Merging of valid national TMs used as seniorities with new UK right from the EUTM ?
 - c. Intention to Use – automatically understood if filed at the EUIPO – no formalities

- d. Address for Service – we would like an easy mechanism
- e. Automatic extension of IR to a UK extension if it covers EU even if it is based on a EUTM
- f. Pending appl'ns – don't like the proposal to file a UK application up to 9 months after exit – what will be the costs – chances of not registering the TM ? We would prefer the EUIPO see the appl'n through to reg'n and then transfer to UKIPO.
- g. Pending actions : eg those dragging on before BoA – would go back to UKIPO and start over ? Is this the best solution ? Ideal is to have these kept with the court already handling the matter.
- h. Licence and coexistence agreements : P&G has at least 387 active licence agreements and approx. 8.948 coexistence agreements related to TMs.
If covered EU at time of execution, then should cover UK at exit date ? for parties to decide if want to make amendment to agreement

9. Impact on Industry

- a. First reaction – catastrophe – comments published :
 - i. Interest rates in UK raised in November 2017 for the first time in a decade – salaries remain stagnant
 - ii. Became worst performing country in the G7 ?
 - iii. Biggest financial squeeze for families since the 1950s
 - iv. London – no longer a tech capital ?
 - v. Recruiting may be an issue – less people from EU want to look for work in the UK – with the exception of Facebook who opened a hub in December employing 800 people
 - vi. Supply chains (automobile industry, aeronautique etc.) affected – re-localization of activities so change in relationships with providers and sub-contracters. The UK's automotive industry produces an average of 1.6 million cars each year. A total of 77 percent are exported abroad, of which 58 percent are sent to EU countries.
 - vii. The EU awarded the Netherlands the right to host the European Medicines Agency, which up until now has been based in London.

10. Impact on Industry

- b. Is it really ?
 - i. Recent figures show some companies not affected eg Shell, BP
 - ii. Brand Finance CEO David Haigh considers them evidence that “Brexit is proving to be an opportunity and stimulus for many British brands”
 - iii. “It is becoming clear that the UK economy is far more resilient than predicted and that UK brands are responding well to the challenge posed by Brexit.”