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LEGAL ALERT

The impact of BREXIT on Industrial Property assets in the European Union

As you may be aware, the United Kingdom has withdrawn from the European Union and on December 31st, 2020, the transitional period provided for in the Withdrawal Agreement will end.

The definitive exit from the European Union will become effective on January 1st, 2021, which will have an impact on industrial property assets, specifically on community trademarks and community designs that are registered or in the process of being registered before the European Union Intellectual Property Office ("EUIPO").

Below, we summarize the main effects of BREXIT for the indicated industrial property rights, which will occur as of January 1st, 2021:

- Those community trademarks and community designs that are registered before the EUIPO by December 31st, 2020 will automatically be converted into equivalent registrations in the UK and given a new registration number in that country. Therefore, there will be a community registration and a UK registration, which will be different and independent. The registration in the United Kingdom will be processed automatically, without the owner having to apply or pay for the registration.
- Those community trademarks and community designs that are in the process of being registered as of December 31st, 2020, when granted, will only have protection in the remaining 27 member countries of the European Union. In order to extend the protection to the United Kingdom, the applicant must request the conversion of such application(s) into the equivalent(s) in that country. The application must be made before the trademark or design is accepted for registration and, in any case, within a period of 9 months as of January 1st, 2021.
- Any community trademarks and community designs filed before EUIPO as of January 1st, 2021 onwards, will no longer be protected in the United Kingdom, but only in the remaining 27 European Union member countries.

Finally, it is relevant to note that BREXIT will have no implications in relation to patents of invention that are pending or have been granted in the European Union, considering that the European Patent Office ("EPO") is not part of the European Union.

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