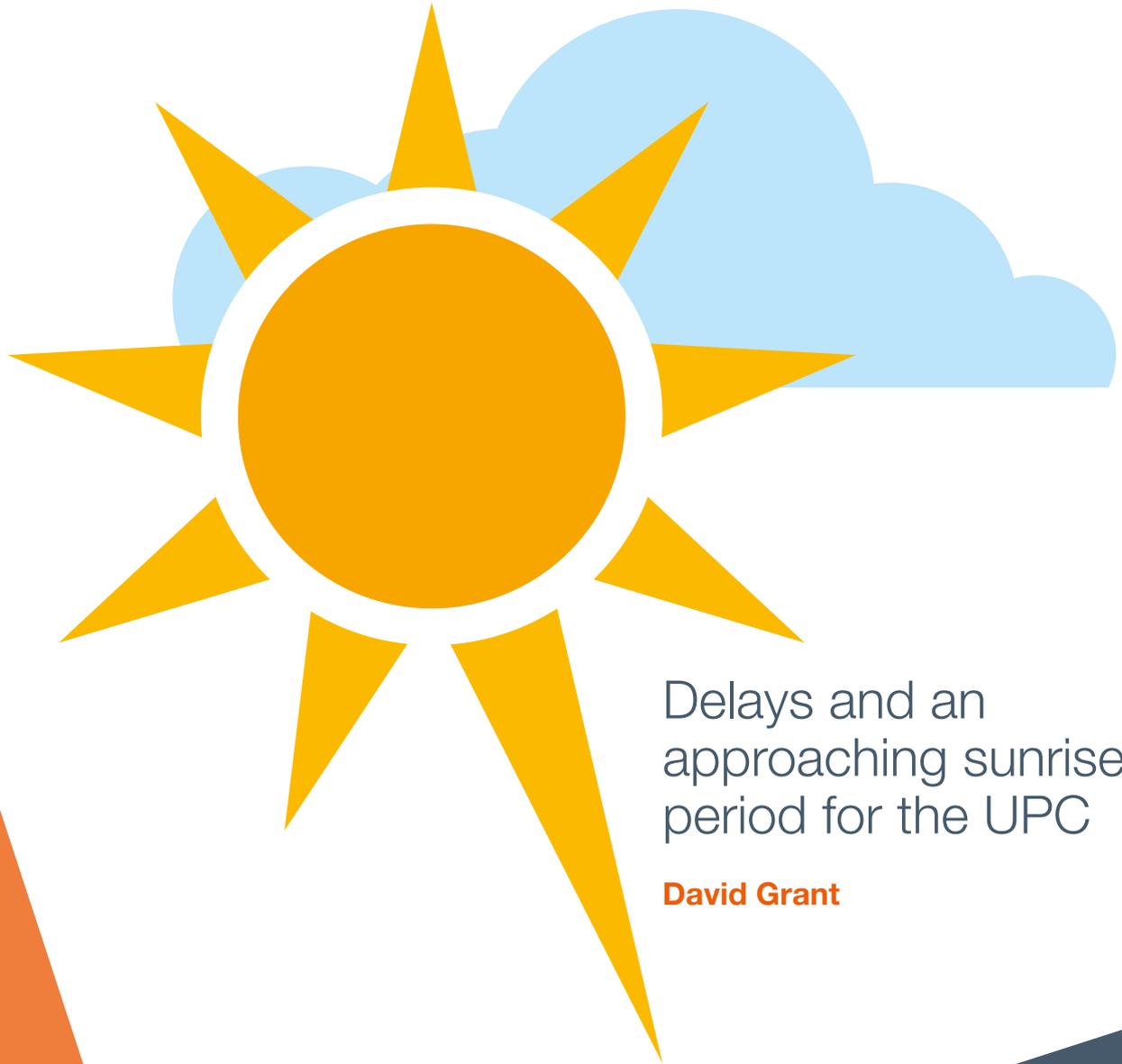


# ReMarks

IP Update/2nd Quarter 2017



Delays and an  
approaching sunrise  
period for the UPC

**David Grant**

## Also in this issue

---

Date protection overhaul –  
Are you ready?

---

China confirms  
“Merchandising Rights”  
as “Earlier Rights” under  
Trade Mark Law

---

What pharmaceutical  
companies need to  
know about CETA’s  
implementation in Canada

## Contents

Update on the UPC: delays and the approaching sunrise period	2
China confirms “Merchandising Rights” as “Earlier Rights” under Trade Mark Law	4
Deriving value from IP	5
Get your priorities straight before it is too late	6
What pharmaceutical companies need to know about CETA’s implementation in Canada	7
Data protection overhaul – Are you ready?	8
Unjustified threats in the UK – New uniform regime is now in force	9
UK to join the Hague System for international design registrations	10
Trump’s trade marks	11

# Update on the UPC:

**The Unified Patent Court (UPC) Agreement requires ratification by at least 13 participating states in order to come into force, including France, Germany and the UK. The current position is that 12 states including France have ratified, so everyone is looking to the UK and Germany to complete the process.**

UK ratification of the UPC Agreement and Protocol has been delayed by the recent General Election. Given that none of the political parties with elected Members of Parliament has opposed ratification, there is no reason why ratification by the next UK Government should not follow. Ratification by Germany also looks likely to be delayed, due to a challenge being brought in the Federal Constitutional Court. The existence of this challenge came to light in June 2017 but the nature of the challenge has not been made public at the time of writing.

The UPC Preparatory Committee has now acknowledged that it will not be possible for the UPC to become operational in December 2017 as it had previously envisaged.

While these delays introduce further uncertainty, applicants should still consider preparations in anticipation of the UPC becoming operational, and it will be prudent to consider that that will occur in the first quarter of 2018. From the point at which the UPC becomes operational, the UPC will have jurisdiction over the national validations of any European patent in member states that have ratified the Agreement on a Unified Patent Court (UPCA). This means that the UPC will be competent to hear cases of infringement and/or validity in respect of patents granted in those member states, with the Court issuing a single ruling that will apply across each one of those member states.

For those patentees who do not wish their non-unitary patent rights to fall under the jurisdiction of the UPC, there exists the opportunity to “opt out” of the UPC. The opt-out will take the form of an administrative process, in which the owner of the patent files a request at the EPO.

Importantly, a patentee will only be able to opt out of the UPC provided that a claim has not already been filed in respect

# delays and the approaching sunrise period



of the patent at the UPC. This will apply immediately after the UPC becomes operational. In the event that a third party files a claim for central revocation or a central declaration of non-infringement at the UPC, for example, the patent will, from that point onwards, fall under the exclusive jurisdiction of the UPC. Thus, for owners of granted European patents who wish to ensure that their rights will remain under the jurisdiction of the national courts (and so will not be targets for central revocation, for example), it is advisable to file an opt-out in respect of those patents sooner, rather than later.

In order to allow patentees the chance to file opt-outs for their existing patents before the UPCA comes into effect, a sunrise period is due to be implemented, during which time patent proprietors will be able to file requests to opt out. The timing of the sunrise period (as currently expected) is illustrated in the timeline below (Figure 1).

As shown in Figure 1, the sunrise period will commence three months before the UPCA enters into force. Patentees can still opt out after the UPCA enters into force, provided a third party has yet to file a claim in the UPC concerning the patent in question. It is generally accepted that an opt-out will last for the lifetime of the patent (unless withdrawn).

The “transitional period” shown in Figure 1 is scheduled to last seven years from entry into force of the UPCA, but may be extended to 14 years; during this time, a national court of a member state in which a European patent has been validated may still rule on patent infringement and/or validity in that member state, even if the proprietor has not filed an opt-out of the UPC in respect of the patent. Once the transitional period expires, the national courts will cease to have jurisdiction over any existing European patents for which

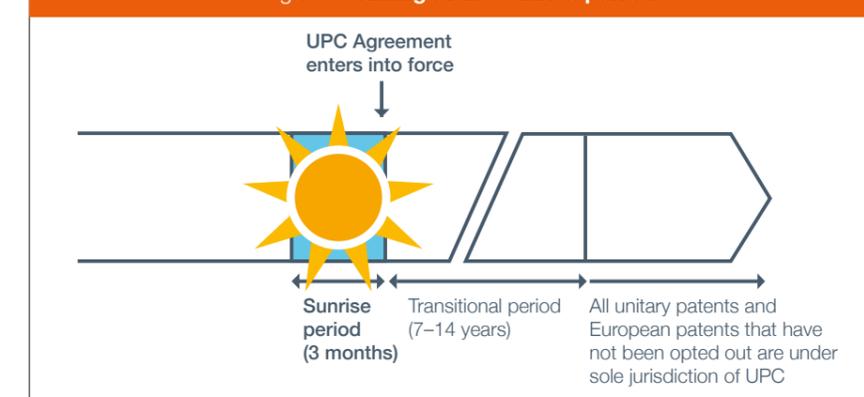
the proprietor has not filed an explicit request to opt-out of the UPC.

For patentees that are keen to enforce their rights across Europe, and in particular, who will be looking to obtain injunctions on a pan-European basis, opting in (that is, deciding not to file a request to opt-out) will provide the opportunity to do so in one centralised action. Whilst the costs and administrative burden involved in using the UPC remain to be seen, it is reasonable to expect these should be less than that associated with handling multiple independent cases before the national courts in each state. Conversely, adopting a “business as usual” approach by opting out will provide security for applicants who do not wish their cases to fall under the jurisdiction of a new and untested court, particularly when the rulings issued by the court are so far reaching in terms of their geographical coverage.

One further important point to note is that it is the actual owner of the patent, or their representative, who must file the request to opt out. Thus, where a party files a request to opt out, that party will need to ensure that they can demonstrate a chain of title from the original rights holder to themselves.

We recommend that patentees review their portfolios on a case-by-case basis in advance of the sunrise period, and consider the merits of opting out versus in, in respect of each individual patent. We further advise that patentees carry out a due diligence exercise in ensuring they can demonstrate legal ownership of the patent(s), so as to ensure that any request to opt out a patent is validly filed during the sunrise period.

Figure 1: Timing of the sunrise period



The “transitional period” shown above is scheduled to last seven years from entry into force of the UPCA, but may be extended to 14 years.



**David Grant**  
dgrant@marks-clerk.com  
Marks & Clerk  
London (UK)

# China confirms “Merchandising Rights” as “Earlier Rights” under Trade Mark Law

**Following the *Kung Fu Panda* case, in which the Beijing Higher People’s Court recognised DreamWorks’ merchandising rights in the title of its *Kung Fu Panda* film, the Supreme People’s Court has confirmed in a judicial interpretation that the title of a work or name of a character in a copyright work that enjoys a high level of recognition shall be protected as an “earlier interest” under the Trade Mark Law.**

The “Provisions of the Supreme People’s Court on Several Issues Concerning the Hearing of Administrative Cases Involving the Granting and Affirmation of Trade Mark Rights”, which became effective on 1 March 2017, provide that “with respect to those works within copyright terms, if the title of a work or the name of a character in the work enjoys a high reputation, and its use as a trade mark in respect of relevant goods is likely to mislead the relevant public to believe that such goods are authorised by or have certain associations with the copyright owner of the work, and the party concerned claims prior right based on this, the Court shall uphold such claim”. While “merchandising rights” are not mentioned expressly the Provisions implicitly recognise such rights by expanding the concept of “earlier rights” to include civil interests arising from the title and character name of a reputable copyright work.

This is encouraging for right holders who were concerned that the *Kung Fu Panda* judgment might have limited bearing on future cases. However, protection of merchandising rights remains limited. They may only form a valid basis in administrative proceedings (oppositions, invalidations, etc). They do not enable rights holders proactively to prevent pirates’ use of titles or character names as unregistered trade marks. Also, the rights apply only to titles or names of characters in copyright works.

The Provisions also address protection of celebrity names. Where the relevant public believes that the trade mark at issue refers to a natural person (celebrity) and believe that the goods to which the trade mark is applied are authorised by or have an association with that person, the court may determine that the trade mark infringes the name right of that person.

This reflects the Court’s decision in favour of NBA legend Michael Jordan, who had waged a campaign for ownership of the Chinese character trade mark 乔丹 (QIAODAN, a transliteration of JORDAN) that had been preemptively registered by a Chinese sportswear maker. The Court found that the Chinese transliteration of JORDAN was closely associated with the former NBA athlete in China, and so the registration of the Chinese mark by a third party would impair Mr Jordan’s right to his personal name even though JORDAN may be a common family name in the west.

While the Provisions break no new legal ground, they reinforce the bases for decisions handed down in various recent high profile cases and attempt to introduce practical measures to improve examination standards.



**Xuefang Huang**  
xhuang@marks-clerk.com.cn  
Marks & Clerk  
Beijing (China)

# Deriving value from IP



Many modern businesses are well aware of IP as a valuable, if not the most valuable, corporate asset. A 2015 *Forbes* article indicated that up to 80 per cent of public companies’ market value now lies in their IP and intangible assets. *Forbes’* long-running analysis of the world’s most valuable brands, show Apple, Google, and Microsoft topping the 2016 list with valuations ranging from US\$87 billion to US\$170 billion. Even with current real estate prices, the days of corporate value being driven by the bricks and mortar are gone.



**Michael Lin**  
mlin@marks-clerk.com.hk  
Marks & Clerk  
Hong Kong (China)

As patent filings, trade mark filings and design filings increase by double digits around the world, innovative companies are discovering non-traditional strategies to derive value from their IP. Some of these strategies have caught on in multiple countries, while others are very location-specific. However, all modern business people, financiers and attorneys should be aware of the variety of non-traditional methods to better derive value from their IP.

#### Tax benefits

In an increasing number of locations around the world, Governments are providing tax benefits to innovative companies which locate R&D and corporate entities within their boundaries. This move by local and national Governments typically recognises the spill-over effect of local R&D – increased jobs/lower unemployment, higher-skilled jobs, higher paying jobs and more. This in turn leads to a virtuous cycle of increasing population, better education, higher real estate and corporate rents and increased income tax revenue. Two good examples are the UK’s Patent Box and China’s High- and New-Tech Enterprise program which reduces corporate tax by up to half.

Some countries tax royalty income at a lower tax rate than other forms of income. What is more, as royalty income goes directly to the bottom line, £1 million in royalties is equivalent to £10 million in sales if your profit margin is 10 per cent.

#### Marketing benefits

Marketers have used IP, especially trade marks and trade dress, as key tools for protecting their work for decades, and many US companies place utility patent markings on their products and/or webpages as it provides specific benefits under US law. However, the rise of additional strategies has also gained popularity as well. For example, the marking of design patents and utility

models on packaging in China often provides a sales boost, as consumers may believe that such products contain an improved technology. Admittedly, in some cases this is based upon consumers not understanding the difference between a patent, a design, and a utility model.

#### Stock/Valuation Benefits

Across the world, companies with active and large IP portfolios are seen by some as advanced and innovative compared to their IP-less peers, potentially leading to increased stock valuation, PE ratios and more. Many discerning investors will look for a robust IP portfolio before investing.

#### Political benefits

In certain countries, different regions, municipalities and universities are ranked against each according to their IP filings to ostensibly track and encourage innovation and research investment. In certain universities, patent filings also count as publication credits for tenure.

Areas such as Silicon Valley, Boston, London, Tel Aviv and Seattle, have often included in their marketing materials statistics about IP filings as indicators of innovation and entrepreneurialism to encourage startups and entrepreneurs to relocate.

#### Moving Forward

As the world economy becomes more and more interconnected, it is becoming essential that business owners and entrepreneurs understand the variety of options available to them to build long-term value for their organisations and institutions. Exploiting their IP as widely as possible is becoming more and more important.

# Get your priorities straight before it is too late

**It is said that good things happen when you get your priorities straight. The lessons that Bayer Cropscience (BC) learned in the Canadian Federal Court's recent decision in *Bayer Cropscience v Canada (Attorney General)*, 2017 FC 178 should serve as a cautionary tale for others when claiming priority not only in Canada, but in other jurisdictions too.**

On 3 April 2012, BC filed US patent application 61/619,691 with the United States Patent and Trademark Office (USPTO) (the '691 US priority application). The USPTO did not at that point assign a filing date due to the failure of filing accompanying drawings. On 19 April 2012, BC filed the drawings and the USPTO assigned a filing date of 19 April 2012, which BC did not contest. On 15 March 2013, BC filed an international (PCT) application claiming priority from the '691 US priority application. BC asked for a priority date of 3 April 2012, but since this request had no basis, the PCT application was given a priority date of 19 April 2012. On 14 April 2015, on BC's request, the USPTO amended the filing date of the '691 US Priority Application to 3 April 2012 as the USPTO conceded that the requested drawings were not, in fact, required.

**Bayer Cropscience's experience serves as a lesson for others when claiming priority in Canada and elsewhere.**

On 7 August 2015, the PCT application entered national phase in Canada as Canadian patent application 2907271 (the '271 application). BC tried to request a priority date of 3 April 2012, but the Commissioner of Patents in Canada denied the request and concluded that the correct date was 19 April 2012. BC contested this date at trial and maintained that the Commissioner incorrectly recorded the priority filing date for the '271 application. The Commissioner replied that, in accordance with section 88(1) (b) of the Canadian Patent Rules, BC's request to have the priority date changed had to have been made within 16 months of the filing date of the '691 US priority application, namely before 19 August 2013. When the USPTO finally amended the filing date of the '691 US priority application on 14 April 2015, it was already long overdue for BC to change the priority date of the '271 application.

BC's experience serves as a lesson for others when claiming priority in Canada. It is vital that the 16-month deadline from the date of the priority application be docketed as there may be no recourse after the fact. If there is any question concerning the correct filing date of an application that may be used as a priority for further applications, it is important that the matter be resolved as soon as possible. This is especially true in the case of PCT applications where at the time of filing, the applicant may not know all the jurisdictions in which national phase will be entered.

It is strongly recommended, therefore, that to avoid potential date pitfalls when entering national phase, filing dates and priority dates should be confirmed at the time of filing of the PCT application, preferably at the time of filing the priority application. In other words, make your priority claims a top priority.



**Simmi Mangat**  
smangat@marks-clerk.ca  
Marks & Clerk  
Ottawa (Canada)

# What pharmaceutical companies need to know about CETA's implementation in Canada

**The Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union was approved by all 28 EU member states in October 2016, and was signed promptly thereafter by Canadian Prime Minister Justin Trudeau. Under CETA, Canada has promised, inter alia, to make a number of important changes to intellectual property protection for pharmaceutical patentees in order to bring Canadian practice more in line with European practice.**

On 14 February 2017, the Canadian House of Commons passed the bill that will implement CETA, namely Bill C-30, "An Act to implement the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States and to provide for certain other measures". The Bill was passed by the Canadian Senate without amendment on 11 May 2017, and received Royal Assent on 16 May 2017 thus becoming an Act of Parliament. The legislation will come into force at a later date (or dates) to be fixed by an order of the Governor in Council, aside from certain coordinating amendments that take effect immediately. Implementation regulations are expected to follow any day.

Bill C-30 includes several changes to the Canadian Patent Act and Food and Drug Act as they pertain to protection of innovative pharmaceuticals.

Notably, Bill C-30 includes amendments to the Canadian Patent Act to provide patent term extensions (PTEs) for pharmaceuticals, by introducing a Supplementary Protection Certificate (SPC) system similar to the European SPC system. Eligible drugs are defined broadly to include human and veterinary drugs. Eligible patents will have to pertain to a "medicinal ingredient" or a "combination of medicinal ingredients", and only one patent can be the subject of an SPC.

Where there are multiple patents, Bill C-30 provides rules for determining which patent is eligible.

Bill C-30 includes amendments that would put an end to "dual litigation" in Canada. Currently, Canada has a system that allows for two legal proceedings (dual litigation) between the same parties relating the same drug and patent: (i) a summary proceeding under the Patented Medicines (Notice of Compliance) Regulations (PM(NOC) Regulations), which link the patent regime to regulatory approval by Health Canada; and (ii) a patent infringement or impeachment action under the Patent Act. Under Bill C-30, the PM(NOC) regulations survive but in an amended form, intended to replace the current summary proceedings with full patent infringement and validity actions that would result in a final determination on infringement and validity issues.

It should be noted that CETA will not apply to the United Kingdom once it leaves the European Union. However, the changes being made to the Canadian Patent Act will affect everyone, not just members of CETA. Furthermore, it is expected that Canada will pursue a similar trade agreement with the UK after Brexit, and it will have a strong head-start, given that both parties participated in negotiations on CETA.



**Jennifer Ledwell**  
jledwell@marks-clerk.ca  
Marks & Clerk  
Ottawa (Canada)

**Bill C-30 includes several changes to the Canadian Patent Act and Food and Drug Act as they pertain to protection of innovative pharmaceuticals.**

# Data protection overhaul – Are you ready?

Data Protection legislation in the EU comprises the set of measures that organisations must comply with when storing, processing and transferring personally identifiable information to ensure that is used lawfully, is not retained excessively and is kept secure. This regime is being updated in the form of the General Data Protection Regulation (GDPR), the new legal framework by which EU Member States must treat and protect personal data which is coming into force on 25 May 2018. Because it is a Regulation rather than a Directive it will become law in the UK from day one.



Key changes implemented by the GDPR include the following:

- The definition of personal data will be broader.
- Consent to process an individual's data will need to be more explicit, revocable and narrower in scope.
- The rules will now apply to Data Processors as well as Data Controllers.
- Fines for non-compliance will be hiked from the current maximum of £500,000 to the greater of €20,000,000 or four per cent of annual worldwide turnover.
- Many organisations will need to appoint a Data Protection Officer.
- Individuals will be able to exercise their right to an access request without being charged a fee.
- Individuals will have the new rights to have their data erased or transferred to new service providers.
- A breach which prejudices an individual's rights must be notified to the authorities within 72 hours. In serious cases the affected individual must be notified also.
- Many organisations may be affected but some may not realise it, or may under-estimate what it will take to comply, due to the following common misconceptions:
  - The GDPR is an EU Regulation but Brexit will not mean Brexit in this case. The UK is implementing the Regulation in full anyway (having been one of the countries pushing for it) and will not be revoking it once it leaves. In any case, the GPDR will also apply to organisations in non-Member States supplying goods and services into the EU.

- A higher standard applies to sensitive personal data (such as data relating to health, political beliefs and ethnicity). Businesses should not assume that they do not hold any such data because they are not the NHS or MI5. Many hold details on employees' medical conditions so that office first aiders know what to do in an emergency. Others hold details of ethnicity, disability and sexual orientation to meet diversity targets. They need to be sure that it is kept securely and that the requisite consent has been obtained from the subjects in question.

- The task of ensuring compliance cannot just be dumped on some unlucky individual in one of the administrative departments. It will need the buy-in of management, a budget for expenditure required and a joined-up approach by Legal, HR, IT and Marketing.

May 2018 seems a long way off but it is not. The sooner organisations start preparing for the new regime, the easier the exercise will be and the less likely it will be that, post-May, they will be fined for non-compliance or sued by a disgruntled individual whose personal data has been misused.



**Simon Portman**  
sportman@marks-clerk.com  
Marks & Clerk  
Cambridge (UK)



**In the UK, a person threatened by proceedings relating to infringement of patent, trade mark or design rights can sue the person making the threats in certain circumstances. However, the substantive law and practice relating to unjustified threats differs considerably across these rights.**

# Unjustified threats in the UK – New uniform regime is now in force

The Intellectual Property (Unjustified Threats) Act 2017, which came into force on 27 April 2017, is aimed at reforming this area of law by providing a clearer, uniform regime applicable across all of the above rights as set out below:

- The Act provides a new test for determining whether a communication constitutes a threat. If a reasonable person in the position of a recipient understands from the communication that the right exists and that the person notifying the existence of the right intends to commence infringement proceedings against him or any other person in respect of an act done or to be done in the United Kingdom, then, a threat has been made. If that threat is unjustified, subject to the provisions discussed below, an action may lie against the person making the threat.
- If the threat relates to certain acts known as acts of "primary infringement", it is not actionable. For example, in patent cases, threats relating to acts of making or importing a product for disposal, or using a process will not be actionable. The acts differ based on the right in question.
- Similarly, if a primary infringer (ie someone who has done or intends to do any of the acts of primary infringement) is threatened with infringement proceedings, the person making the threats cannot be sued for unjustified threats.
- The Act provides a framework for right holders to make genuine enquiries of third parties without fear of being sued. It states that implied threats of infringement proceedings made to third parties are not actionable if they are contained in a "permitted communication". A "permitted communication" must be made for

"permitted purposes". For example, to provide notice of existence of a right or to ascertain the identity of a primary infringer.

- Any person aggrieved by unjustified threats can obtain a declaration, damages and/or an injunction against the person making the threats. It need not necessarily be the recipient of the threat.
- A person who made the threat has two statutory defences available to them when sued for making threats. First, they can show that the threat is justified, ie that the acts in respect of which a threat was made were, or would be, infringing ("justification defence"). Secondly, they can show that they had taken "reasonable steps" to identify a primary infringer prior to making the threats and had notified the person aggrieved by the threats of those steps. What constitutes "reasonable steps" will depend on the circumstances of each case.
- The Act protects professional advisers from an unjustified threats action provided they fulfil certain conditions. Although not expressly stated in the Act, it would appear that in-house advisers can also benefit from the protection.

The Act is a positive step in providing greater clarity and certainty in the complex area of unjustified threats, but pitfalls still remain, and IP right holders must exercise caution and obtain professional advice, where possible, before communicating with alleged infringers.



**Rajesh Sagar**  
rsagar@marks-clerk.com  
Marks & Clerk  
London (UK)



## UK to join the Hague System for international design registrations

From April 2018, UK applicants will be able to file World Intellectual Property Organization (WIPO)-administered international design registrations independently of the status of the UK in the EU. A road map to the ratification of the Hague agreement was recently announced by the UK Government.

The “Hague System for the International Registration of Industrial Designs” was originally signed in 1925 and was intended to provide a mechanism for the registration of designs in multiple countries via a single design filing authority, namely WIPO. The Hague System offers advantages such as the possibility to file a registration in a single language and having to comply with only a single set of formal requirements, rather than a large number of individual and often conflicting national requirements, and complements the Patent Cooperation Treaty, which provides similar advantages for patent applications.

However, similar to the PCT, the Hague Agreement is a closed system and only available to persons based in a Hague member state or belonging to an intergovernmental organisation that is member to the Hague Agreement. While the UK has so far not joined the Hague System, the EU is an intergovernmental Hague member and UK-based applicants are currently able to register designs under the Hague Agreement by virtue of the UK’s membership of the EU. This position can be expected to change following the UK’s departure from the EU.

Post-Brexit, the Hague System will provide a simple route to a design registration in both the EU and in the UK.

As such, the ratification of the Hague Agreement will ensure the Hague System remains available to UK users. Likewise, this will also ensure that design protection in the UK via the Hague System will be available to other Hague users. This may generally increase the attraction of the Hague System.

To put this into context, at least from a UK or European perspective, the Hague System was hitherto not much more attractive than an EU-wide design registration (which includes the UK) or a direct national UK registration. Post-Brexit, the Hague System will provide a simple route to a design registration in both the EU and in the UK. The formal requirements for design protection in the UK and the EU are very similar, meaning that a Hague design registration prepared with the UKIPO and EUIPO formal requirements in mind is likely to provide a reliable scope of protection in both the UK and the EU. At the same time, the Hague Agreement also provides the opportunity to additionally designate other European non-EU countries, such as Switzerland and Norway, as well as increasingly important manufacturing bases such as Tunisia, Egypt and Turkey, and Asian countries such as Singapore and South Korea. An up-to-date list of Hague member states is available from WIPO ([www.wipo.int/hague/en/members](http://www.wipo.int/hague/en/members)).

Hague design registrations are administered by WIPO and have the same legal effect in the EU or the UK as registrations granted by the EUIPO or the UKIPO, respectively.



**Florian Bazant-Hegemark**  
fbazant-hegemark@marks-clerk.com  
Marks & Clerk  
Birmingham (UK)



## Trump’s trade marks

Donald Trump has enjoyed plenty of success as a businessman, developing a family brand that stretches to hospitality, luxury goods and real estate. He is the first US president to come to office with such a background. Prior to entering office, the Trump Organization had over a hundred trade mark registrations in the USA protecting its brand, the majority featuring TRUMP as the dominant element (eg TRUMP GOLF LINKS and TRUMP HOTEL COLLECTION), as well as several registrations for TRUMP alone. These marks are registered in relation to a broad range of goods and services, from golf courses to gambling and real estate services to retail services.

Trump’s brand protection focus shifted when he announced his presidential candidacy, filing a US application in August 2015 for MAKE AMERICA GREAT AGAIN in relation to various campaign-related goods and services. He had registered the same mark in 2012 albeit in relation to slightly different services: political action and fundraising. It would appear that Trump had both politics and business in his mind when he filed two separate applications for TRUMP in May 2015, one in relation to politics and political fundraising and the other for services in relation to golf. Although Trump has now stepped down from his personal business duties, DTTM Corporation LLC, Trump’s business entity, has since filed new trade mark applications in the USA (although none feature the word TRUMP).

Already thinking ahead to 2020, since being elected president, Trump has filed for his anticipated re-election slogan KEEP AMERICA GREAT in various classes for campaign merchandise and political campaigning services.

Donald Trump’s wider family is also well known in the business community and it seems the Trump family is going to continue to be fiercely protective of its brand. First Lady Melania Trump has recently settled a libel claim with the *Daily Mail* where she claimed that her reputation would be damaged during a period where, as First Lady, she could capitalise on being one of the most photographed women in the world. The libel claim referred specifically to her ‘brand’ and the resulting damage to her business opportunities, following a defamatory article published by the newspaper regarding her previous modelling career.

Meanwhile, “First Daughter” Ivanka Trump also made the headlines recently when three of her trade marks were provisionally accepted in China. Ivanka

Trump is a successful businesswoman in her own right and holds several trade mark registrations worldwide. The majority of these marks are variations of IVANKA TRUMP and are mostly registered in relation to clothing, fashion accessories and retail services. Despite Ivanka having resigned from her business due to her role in the White House, Ivanka Trump Marks LLC has since filed in the Philippines and Canada and the fashion business appears to be continuing to expand.

Going forward, it will be interesting to see how the whole Trump family’s brand protection strategy develops as some members focus on politics, whilst others remain in the world of business.



**Ella Newell**  
enewell@marks-clerk.com  
Marks & Clerk  
Birmingham (UK)



**Amy Wood**  
awood@marks-clerk.com  
Marks & Clerk  
Birmingham (UK)



ReMarks is a newsletter produced by Marks & Clerk.  
Articles featured are intended to provide a summary of the subject  
matter only. Readers should not act on any information without first  
obtaining specialist professional advice.

[www.marks-clerk.com](http://www.marks-clerk.com)

Copyright Marks & Clerk Properties Limited, June 2017

Marks & Clerk offices are located in Beijing and Hong Kong (China); Kuala Lumpur  
(Malaysia); Singapore; Ottawa (Canada); Paris and Sophia Antipolis (France);  
Luxembourg; Aberdeen, Birmingham, Cambridge, Edinburgh, Glasgow, London,  
Manchester and Oxford (UK).